

40A:4-45.1

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 40A:4-45.1

(Local budget-
"cap")

LAWS OF: 1990

CHAPTER: 89

Bill No: A3601

Sponsor(s): Bryant and Doyle

Date Introduced: May 24, 1990

Committee: Assembly: County Government

Senate: -----

Amended during passage: Yes Assembly committee substitute for
A3601/A3298 enacted.

Date of Passage: Assembly: June 19, 1990

Senate: June 20, 1990

Date of Approval: August 20, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: No

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: Yes

Hearings: Yes

(over)

974.90
F491
1990a

New Jersey Force on Equitable Management of Revenues and Expenditures.
Report...May 21, 1990. Trenton, 1990.

(See p.15)

974.90
F491
1988b

New Jersey. Legislature. Assembly. State Government Committee.
Public hearing on ACR nos. 83, 82, 73, and 77...
proposes an amendment to the Constitution requiring the Legislature to establish statutory limits on state spending, held 5-23-88, Trenton, 1988.

See newspaper clippings attached:

KBG/SLJ

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 3601 and 3298

STATE OF NEW JERSEY

ADOPTED JUNE 14, 1990

Sponsored by Assemblymen BRYANT and DOYLE

AN ACT concerning local budget caps, amending and supplementing P.L.1976, c.68 and repealing various sections of law.

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

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

2. Beginning with the tax year [1977] 1991 municipalities, other than those having a municipal purposes tax rate of \$0.10 or less per \$100.00, and counties shall be prohibited from increasing their final appropriations by more than 5% or the index rate, whichever is less, over the previous year, except within the provisions set forth hereunder.

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

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

b. [Revenues derived in the previous year from new construction, housing, health or fire safety inspection or other service fees, or from any increase in any previously imposed construction, housing, health, or fire safety inspection or service fees imposed by State law, rule or regulation or by local ordinance;] (Deleted by amendment, P.L. , c. .)

c. Amounts approved by referendum, pursuant to [subsection i. of section 3 of P.L.1976, c.68 (C.40A:4-45.3) and] section 1 of P.L.1979, c.268 (C.40A:4-45.3a) and section 2 of P.L.1983, c.312 (C.40A:4-45.19);

d. [Increased revenue received in the preceding year from payments in lieu of taxes on any property owned by a tax-exempt public entity, to the extent that the payment is excepted pursuant to subsection n. of section 3 of P.L.1976, c.68 (C.40A:4-45.3)] (Deleted by amendment, P.L. , c. .)

e. Expenditures for the assumption of any service or function

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

Matter underlined thus is new matter.

of a local public utility, a local public authority, or a special purposes district, as approved by the Local Finance Board pursuant to section 3 of P.L.1983, c.49 (C.40A:4-45.13).

For the 1991 local budget year, the final appropriations from the prior year shall be the total appropriations for the 1990 budget year. In each local budget year in which any service, function, or portion thereof, is transferred to, or assumed by, the State or federal government from a municipal government, the municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated the amount which the municipality expended for that service or function during the last full budget year, or portion thereof, throughout which the service or function so transferred was funded from appropriations in the municipal budget.

In each budget year subsequent to [1981] 1990, [and in the case of a county, in each budget year subsequent to 1982,] whenever any municipality [or county] shall have transferred to any local public utility, any local public authority or any special purposes district, during the immediately preceding budget year, or at any time during the current budget year prior to the final adoption of the budget, any service or function funded during the immediately preceding budget year, either partially or wholly, from appropriations in the municipal [or county] budget, the municipality [or county] shall deduct from its final appropriations upon which its permissible expenditures are calculated [, or upon which its permissible county tax levy is calculated,] pursuant to this section the amount which the municipality [or county] expended for that service or function during the last full budget year throughout which the service or function so transferred was funded from appropriations in the municipal [or county] budget.

(cf: P.L.1987, c.74, s.1)

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

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

a. [The amount of revenue generated by the increase in valuations, based solely on applying the preceding year's general tax rate of the municipality to the assessed value of new construction or improvements, or by payments in lieu of taxes made by a tax-exempt public entity to the extent that the payment received for any single property exceeds the amount of property taxes received on that property in the year immediately preceding the acquisition of that property by the public entity, or, in the case of State property subject to the provisions of P.L.1977, c.272 (C.54:4-2.2a et seq.), to the extent that the total State payment exceeds the amount received in the 1982 budget year;] (Deleted by amendment, P.L. , c. .)

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

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the municipality, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) [An increase based upon special emergency appropriations made pursuant to N.J.S.40A:4-53, N.J.S.40A:4-54, section 1 of P.L.1961, c.22 (C.40A:4-55.1) or section 1 of P.L.1968, c.194 (C.40A:4-55.13). Special emergency appropriations shall be approved by at least two-thirds of the governing body and the Director of the Division of Local Government Services. Neither approval procedure in paragraph (1) or (2) of this subsection shall apply to appropriations adopted for a purpose referred to in subsection d. or j. below;] (Deleted by amendment, P.L. , c. .)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or j. below.

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

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

f. Amounts reserved for uncollected taxes;

g. [Expenditures mandated after the effective date of this act pursuant to State or federal law;] (Deleted by amendment, P.L. , c. .)

h. Expenditure of amounts [derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance, or derived from the sale of municipal assets] derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

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

j. Amounts required to be paid pursuant to (1) any contract

with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a municipality and any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality to the intermunicipal account; and (3) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part;

k. (Deleted by amendment, P.L.1987, c.74.)

l. [Programs funded wholly or in part by] Appropriations of federal, county, independent authority or State funds, or by grants from private parties or non-profit organizations for a specific purpose, and amounts received or to be received from [federal, State or other funds] such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or non-profit organizations for a specific purpose, [only] the amount of the match which is required by law or agreement to be provided by the municipality shall be excepted;

m. (Deleted by amendment, P.L.1987, c.74.)

n. (Deleted by amendment, P.L.1987, c.74.)

o. [Any decrease in amounts received pursuant to any federal general purposes aid program from the amounts received in local budget year 1982, after deducting from the decrease any amount of new or increased federal or State general purposes aid explicitly provided for the purpose of replacing the decrease in federal aid;] (Deleted by amendment, P.L. , c. .)

p. (Deleted by amendment, P.L.1987, c.74.)

q. [Expenditures of amounts to fund the purchase of vehicles used solely for police purposes by the municipal police department and all equipment installed in or on the vehicles;] (Deleted by amendment, P.L. , c. .)

r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;

s. [Any additional expenditures for the testing of water supplies pursuant to P.L.1983, c.443 (C.58:12A-12 et al.) or any expenditures necessary to comply with an order or permit issued by the Department of Environmental Protection for the construction, improvement, repair or rehabilitation of public water supply systems pursuant to P.L.1981, c.262 (C.58:1A-1 et seq.);] (Deleted by amendment, P.L. , c. .)

t. Amounts expended in preparing and implementing a housing

element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;

u. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

v. [Amounts appropriated for the cost of providing insurance coverage for the municipality, its departments, boards, agencies, commissions, officers and employees, which exceed the amount appropriated therefor, in the 1985 local budget;] (Deleted by amendment, P.L. , c.)

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

x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;

y. [Amounts appropriated for the cost of purchasing, leasing and maintaining enhanced 9-1-1 termination equipment pursuant to the provisions of P.L.1989, c.3 (C.52:17C-1 et al.); or] (Deleted by amendment, P.L. , c.)

z. [Amounts appropriated for a project in a transportation development district as may be provided in a project agreement pursuant to the provisions of P.L.1989, c.100 (C.27:1C-1 et seq.)] (Deleted by amendment, P.L. , c.);

aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

dd. Expenditures of amounts actually realized in the local budget year from the sale of municipal assets if appropriated for non-recurring purposes or otherwise approved by the director;

ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an

exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:

1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;

2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;

3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;

4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and

5) the impact of utilization of surplus upon succeeding budgets of the local unit.

(cf: P.L.1989, c.100, s.19)

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

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

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

The amount of revenue generated by the increase in valuations within the county, based solely on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements within the county, and such increase shall be levied in direct proportion to said valuation¹;

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

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the [municipality] county, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed

in the aggregate 3% of the previous year's final current operating appropriations.

(2) [An increase based upon special emergency appropriations made pursuant to N.J.S.40A:4-53, N.J.S.40A:4-54, section 1 of P.L.1961, c.22 (C.40A:4-55.1) or section 1 of P.L.1968, c.194 (C.40A:4-55.13). Special emergency appropriations shall be approved by at least two-thirds of the governing body, and, where appropriate, approved by the chief executive officer of the county and the Director of the Division of Local Government Services. Neither approval procedure in paragraph (1) or (2) of this subsection shall apply to appropriations adopted for a purpose referred to in subsection d. or j. below]

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or f. below;

d. All debt service;

e. [Expenditures mandated after the effective date of this act pursuant to State or federal law;] (Deleted by amendment, P.L. , c. .)

f. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a county and any other county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; and (2) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part;

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

h. (Deleted by amendment, P.L.1987, c.74.)

i. [Any decrease in amounts received pursuant to any federal general purposes aid program from the amounts received in local budget year 1982, after deducting from the decrease any amount of new or increased federal or State general purposes aid explicitly provided for the purpose of replacing the decrease in federal aid;] (Deleted by amendment, P.L. , c. .)

j. [Amounts expended for the conduct of any special election required by law to be held at a time other than the time of the general election;] (Deleted by amendment, P.L. , c. .)

k. [Any additional expenditures for the testing of water

supplies pursuant to P.L.1983, c.443 (C.58:12A-12 et al.);] (Deleted by amendment, P.L. , c. .)

l. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

m. [Amounts appropriated for the cost of providing insurance coverage for the county, its departments, boards, agencies, commissions, officers and employees, which exceed the amount appropriated therefor in the 1985 local budget;] (Deleted by amendment, P.L. , c. .)

n. [Amounts appropriated for the cost of purchasing, leasing and maintaining enhanced 9-1-1 termination equipment pursuant to the provisions of P.L.1989, c.3 (C.52:17C-1 et al.); or;] (Deleted by amendment, P.L. , c. .)

o. [Amounts appropriated for a project in a transportation development district as may be provided in a project agreement pursuant to the provisions of P.L.1989, c.100 (C.27:1C-1 et seq.)] (Deleted by amendment, P.L. , c. .)

p. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

q. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

r. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency.

(cf: P.L.1989, c.100, s.20)

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

7. This act shall take effect immediately and be applicable to the tax years beginning in 1977 [and shall expire December 31, 1990].

(cf: P.L.1989, c.338, s.1)

5. (New section) In addition to the exceptions to the limit on increases in final appropriations for any budget year, listed in section 3 of P.L.1976, c.68 (C.40A:4-45.3), the Local Finance Board shall have the authority to grant additional exceptions, applicable to all municipalities and only effective for the local budget year in which the exception is granted, upon a finding of extraordinary circumstances that result in an unanticipated increase in expenditures for a service essential to the health, safety and welfare of the residents of the State.

6. (New section) No transfer of funds authorized by N.J.S.40A:4-58 and N.J.S.40A:4-59 shall be made from an appropriation which is not subject to limitation pursuant to

section 3 or 4 of P.L.1976, c.68 (C.40A:4-45.3 and 40A:4-45.4) to an appropriation which is subject to either of those limitations. Notwithstanding the provisions of N.J.S.40A:4-58 and N.J.S.40A:4-59 no transfer of funds is authorized between appropriations not subject to limitation pursuant to section 3 or 4 of P.L.1976, c.68 (C.40A:4-45.3 and 40A:4-45.4), except transfers may be made to interest and redemption charges.

7. (New section) To the extent that a municipality fails to realize revenues appropriated in any budget year, other than federal or State aid revenues, it shall be required to reduce the amount on which it calculates its permissible increase for the following year by an amount equal to those revenues that it failed to realize.

8. (New section) In each local budget year in which any service, function, or portion thereof, is transferred to, or assumed by, the State or federal government from a county government, the county shall deduct from its final appropriations upon which its permissible county tax levy is calculated the amount which the county expended for that service or function during the last full budget year, or portion thereof, throughout which the service or function so transferred was funded from appropriations in the county budget.

9. (New section) All appropriations, other than for debt service and emergency temporary appropriations, made to cover overexpenditures or expenditures from a previous budget year, shall be included within the local unit's spending limitation in the year the appropriation is made.

10. (New section) The Chairman of the Local Finance Board shall provide an annual report to the Governor and the Legislature detailing all significant local expenditure limitation issues that came before the Local Finance Board or the Division of Local Government Services in the Department of Community Affairs during the preceeding year.

11. The following statutes are repealed:

P.L.1981, c.61, s.1 (C.40A:4-45.7)

P.L.1981, c.61, s.2 (C.40A:4-45.8)

P.L.1981, c.155, s.1 (C.40A:4-45.9)

P.L.1983, c.49, s.8 (C.40A:4-45.15)

P.L.1985, c.166 (C.40A:4-45.3c)

P.L.1984, c.227 (C.40A:4-45.24)

P.L.1987, c.74, s.4 (C.40A:4-45.32)

P.L.1987, c.74, s.5 (C.40A:4-45.33)

P.L.1987, c.102, s.7 (C.40A:4-45.34)

P.L.1987, c.102, s.8 (C.40A:4-45.35)

P.L.1987, c.102, s.46 (C.40A:4-45.36)

P.L.1987, c.102, s.47 (C.40A:4-45.37)

12. This act shall take effect on January 1, 1991.

LOCAL BUDGET AND FINANCE

Revises and makes permanent local budget cap law.

[CORRECTED COPY]

ASSEMBLY COUNTY GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 3601 and 3298

STATE OF NEW JERSEY

DATED: JUNE 14, 1990

The Assembly County Government Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 3601 and 3298.

The Assembly Committee Substitute for Assembly Bills No. 3601 and 3298 revises the municipal and county cap laws by repealing many exceptions to the local budget caps which have found their way into the statutes through the years. It is the intent of this substitute to reduce the rate of increase of local government property taxes. The most important cap exceptions are preserved, and the authority of the Local Finance Board is extended to permit the board to grant a cap exception to all municipalities for a local budget year upon a finding of extraordinary circumstances causing an unanticipated rise in expenses for services necessary to the health, safety and welfare of the State's residents.

This substitute bill also excludes from the cap any funds appropriated as matching funds for grants made available to a municipality for a specific purpose by private parties or non-profit organizations. Under this bill the cap base (final appropriations) to be used for the calculation of the 1991 local budget year allowable increases would be the total appropriations, both capped and uncapped, from the 1990 budget year. This substitute bill also makes permanent the cap law, currently in effect until December 31, 1990.

The substitute bill deletes certain revenues and costs currently required by law to be a part of the final appropriations for the previous budget year upon which the 5% cap is to be calculated. Specifically deleted by the provisions of the bill from the final appropriation for the previous year are the following:

Revenues derived in the previous year from new construction, housing, health or fire safety inspection or other service fees, or from any increase in any previously imposed construction, housing, health, or fire safety inspection or service fees imposed by State law, rule or regulation or by local ordinance;

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

Increased revenue received in the preceding year from payments in lieu of taxes on any property owned by a tax-exempt public entity.

With respect to the computation of the previous year's final appropriation for the purpose of establishing the cap base, the

substitute bill also provides that in each local budget year in which any service, function, or portion thereof is transferred to or assumed by the State or federal government from a county or municipal government, the county shall deduct from its final appropriations upon which its permissible county tax levy is calculated, and the municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated, the amount which the county or municipality expended for that service or function during the last full budget year, or portion thereof, throughout which the service or function so transferred was funded from appropriations in the county or municipal budget.

The substitute bill also removes from the calculation of the cap certain exceptions currently allowed to be "outside" the cap calculation, thus requiring a municipality to include these previously excepted costs in its final appropriation upon which the cap is calculated. Specifically excepted from the calculation of the 5% cap or index rate, as appropriate, are the following costs:

Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

Appropriations of county or independent authority funds, or by grants from private parties or non-profit organizations for a specific purpose, or the grants from private parties or non-profit organizations for a specific purpose;

Expenditures for the cost of services mandated by any order of court, State statute, or administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such costs as mandated expenditures on certification to the Local Finance Board by the State agency; and

Expenditures of amounts actually realized in the local budget year from the sale of municipal assets if appropriated for non-recurring purposes or otherwise approved by the Director of the Division of Local Government Services.

The substitute bill also adds to the list of exceptions a provision permitting any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), to appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation, based on the following criteria:

1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;

2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;

3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;

4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and

5) the impact of utilization of surplus upon succeeding budgets of the local unit.

The bill also removes from a county's calculation of the cap certain exceptions currently allowed to be "outside" the cap calculation, thus requiring a county to include these previously excepted costs in its final appropriation upon which the cap is calculated. Specifically added by the amendments to the list of permissible exceptions are the following costs:

Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor; and

Expenditures approved by the Local Finance Board for the cost of services mandated by any order of court, any federal or State administrative rule, directive, order, or any other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency.

Additionally, the bill provides that, to the extent that a municipality fails to realize revenues appropriated in any budget year, other than federal or State aid revenues, it shall be required to reduce the amount on which it calculates its permissible increase for the following year by an amount equal to those revenues that it failed to realize. It also requires that all appropriations, other than for debt service and emergency temporary appropriations, made to cover overexpenditures or expenditures from a previous budget year, must be included within the local unit's spending limitation in the year the appropriation is made. Finally, the substitute bill requires the Chairman of the Local Finance Board to provide an annual report to the Governor and the Legislature detailing all significant local expenditure limitation issues that came before the Local Finance Board or the Division of Local Government Services in the Department of Community Affairs during the preceding year.

The substitute bill also repeals several statutes which concern the treatment of urban aid funds for the purposes of the cap calculation, which allow municipalities to expend the difference between the index rate and the 5% cap in years in which the index rate is less than 5% and which concern certain exceptions to the spending limitations under the cap law for solid waste and recyclable materials.

ASSEMBLY, No. 3601
STATE OF NEW JERSEY

INTRODUCED MAY 24, 1990

By Assemblyman BRYANT

1 AN ACT concerning local budget caps, amending and
2 supplementing P.L.1976, c.68 and repealing various sections of
3 law.

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

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

9 2. Beginning with the tax year [1977] 1991 municipalities,
10 other than those having a municipal purposes tax rate of \$0.10 or
11 less per \$100.00, and counties shall be prohibited from increasing
12 their final appropriations by more than 5% or the index rate,
13 whichever is less, over the previous year, except within the
14 provisions set forth hereunder.

15 For the purpose of this section, in computing its final
16 appropriations for the previous year, a municipality or county
17 shall include, as part of its final appropriations:

18 a. Amounts of revenue generated by an increase in its
19 valuations based solely on applying the preceding year's local
20 purposes tax rate of the municipality to the assessed value of new
21 construction or improvements, or on applying the preceding
22 year's county tax rate to the apportionment valuation of new
23 construction or improvements, as may be appropriate;

24 b. Revenues derived in the previous year from new
25 construction, housing, health or fire safety inspection or other
26 service fees, or from any increase in any previously imposed
27 construction, housing, health, or fire safety inspection or service
28 fees imposed by State law, rule or regulation or by local
29 ordinance;

30 c. Amounts approved by referendum, pursuant to subsection i.
31 of section 3 of P.L.1976, c.68 (C.40A:4-45.3) and section 1 of
32 P.L.1979, c.268 (C.40A:4-45.3a) and section 2 of P.L.1983, c.312
33 (C.40A:4-45.19);

34 d. Increased revenue received in the preceding year from
35 payments in lieu of taxes on any property owned by a tax-exempt
36 public entity[, to the extent that the payment is excepted
37 pursuant to subsection n. of section 3 of P.L.1976, c.68
38 (C.40A:4-45.3)];

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

Matter underlined thus is new matter.

1 e. Expenditures for the assumption of any service or function
2 of a local public utility, a local public authority, or a special
3 purposes district, as approved by the Local Finance Board
4 pursuant to section 3 of P.L.1983, c.49 (C.40A:4-45.13).

5 For the 1991 local budget year, the final appropriations from
6 the prior year shall be the total appropriations for the 1990
7 budget year.

8 In each budget year subsequent to [1981] 1990, [and in the case
9 of a county, in each budget year subsequent to 1982,] whenever
10 any municipality or county shall have transferred to any local
11 public utility, any local public authority or any special purposes
12 district, during the immediately preceding budget year, or at any
13 time during the current budget year prior to the final adoption of
14 the budget, any service or function funded during the
15 immediately preceding budget year, either partially or wholly,
16 from appropriations in the municipal or county budget, the
17 municipality or county shall deduct from its final appropriations
18 upon which its permissible expenditures are calculated, or upon
19 which its permissible county tax levy is calculated, pursuant to
20 this section the amount which the municipality or county
21 expended for that service or function during the last full budget
22 year throughout which the service or function so transferred was
23 funded from appropriations in the municipal or county budget.

24 (cf: P.L.1987, c.74, s.1)

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

27 3. In the preparation of its budget a municipality shall limit
28 any increase in said budget to 5% or the index rate, whichever is
29 less, over the previous year's final appropriations subject to the
30 following exceptions:

31 a. [The amount of revenue generated by the increase in
32 valuations, based solely on applying the preceding year's general
33 tax rate of the municipality to the assessed value of new
34 construction or improvements, or by payments in lieu of taxes
35 made by a tax-exempt public entity to the extent that the
36 payment received for any single property exceeds the amount of
37 property taxes received on that property in the year immediately
38 preceding the acquisition of that property by the public entity,
39 or, in the case of State property subject to the provisions of
40 P.L.1977, c.272 (C.54:4-2.2a et seq.), to the extent that the total
41 State payment exceeds the amount received in the 1982 budget
42 year;] (Deleted by amendment, P.L. , c. .)

43 b. Capital expenditures, including appropriations for current
44 capital expenditures, whether in the capital improvement fund or
45 as a component of a line item elsewhere in the budget, provided
46 that any such current capital expenditure would be otherwise
47 bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

48 c. (1) An increase based upon emergency temporary

1 appropriations made pursuant to N.J.S.40A:4-20 to meet an
2 urgent situation or event which immediately endangers the
3 health, safety or property of the residents of the municipality,
4 and over which the governing body had no control and for which it
5 could not plan and emergency appropriations made pursuant to
6 N.J.S.40A:4-46. Emergency temporary appropriations and
7 emergency appropriations shall be approved by at least
8 two-thirds of the governing body and by the Director of the
9 Division of Local Government Services, and shall not exceed in
10 the aggregate 3% of the previous year's final current operating
11 appropriations.

12 (2) [An increase based upon special emergency appropriations
13 made pursuant to N.J.S.40A:4-53, N.J.S.40A:4-54, section 1 of
14 P.L.1961, c.22 (C.40A:4-55.1) or section 1 of P.L.1968, c.194
15 (C.40A:4-55.13). Special emergency appropriations shall be
16 approved by at least two-thirds of the governing body and the
17 Director of the Division of Local Government Services. Neither
18 approval procedure in paragraph (1) or (2) of this subsection shall
19 apply to appropriations adopted for a purpose referred to in
20 subsection d. or j. below;] (Deleted by amendment, P.L. , c.)

21 The approval procedure in this subsection shall not apply to
22 appropriations adopted for a purpose referred to in subsection d.
23 or j. below.

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

25 e. Upon the approval of the Local Finance Board in the
26 Division of Local Government Services, amounts required for
27 funding a preceding year's deficit;

28 f. Amounts reserved for uncollected taxes;

29 g. [Expenditures mandated after the effective date of this act
30 pursuant to State or federal law;] (Deleted by amendment, P.L. ,
31 c.)

32 h. Expenditure of amounts [derived from new or increased
33 construction, housing, health or fire safety inspection or other
34 service fees imposed by State law, rule or regulation or by local
35 ordinance, or derived] actually realized in the local budget year
36 from the sale of municipal assets;

37 i. Any amount approved by any referendum [or any amount
38 expended to conduct a special election required by law to be held
39 at a time other than the time of a general election or regular
40 municipal election, as appropriate];

41 j. Amounts required to be paid pursuant to (1) any contract
42 with respect to use, service or provision of any project, facility
43 or public improvement for water, sewerage, parking, senior
44 citizen housing or any similar purpose, or payments on account of
45 debt service therefor, between a municipality and any other
46 municipality, county, school or other district, agency, authority,
47 commission, instrumentality, public corporation, body corporate
48 and politic or political subdivision of this State; (2) the provisions

1 of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a
2 constituent municipality to the intermunicipal account; and (3)
3 any lease of a facility owned by a county improvement authority
4 when the lease payment represents the proportionate amount
5 necessary to amortize the debt incurred by the authority in
6 providing the facility which is leased, in whole or in part;

7 k. (Deleted by amendment, P.L.1987, c.74.)

8 l. Programs funded wholly or in part by federal, county,
9 independent authority or State funds, or by grants from private,
10 non-profit organizations for a specific purpose, and amounts
11 received or to be received from federal, State or other funds in
12 reimbursement for local expenditures. If a municipality provides
13 matching funds in order to receive the federal, county,
14 independent authority or State funds, or the grants from private,
15 non-profit organizations for a specific purpose, only the amount
16 of the match which is required by law or agreement to be
17 provided by the municipality shall be excepted;

18 m. (Deleted by amendment, P.L.1987, c.74.)

19 n. (Deleted by amendment, P.L.1987, c.74.)

20 o. [Any decrease in amounts received pursuant to any federal
21 general purposes aid program from the amounts received in local
22 budget year 1982, after deducting from the decrease any amount
23 of new or increased federal or State general purposes aid
24 explicitly provided for the purpose of replacing the decrease in
25 federal aid;] (Deleted by amendment, P.L. , c. .)

26 p. (Deleted by amendment, P.L.1987, c.74.)

27 q. [Expenditures of amounts to fund the purchase of vehicles
28 used solely for police purposes by the municipal police
29 department and all equipment installed in or on the vehicles;]
30 (Deleted by amendment, P.L. , c. .)

31 r. Amounts expended to fund a free public library established
32 pursuant to the provisions of R.S.40:54-1 through 40:54-29,
33 inclusive;

34 s. [Any additional expenditures for the testing of water
35 supplies pursuant to P.L.1983, c.443 (C.58:12A-12 et al.) or any
36 expenditures necessary to comply with an order or permit issued
37 by the Department of Environmental Protection for the
38 construction, improvement, repair or rehabilitation of public
39 water supply systems pursuant to P.L.1981, c.262 (C.58:1A-1 et
40 seq.);] (Deleted by amendment, P.L. , c. .)

41 t. Amounts expended in preparing and implementing a housing
42 element and fair share plan pursuant to the provisions of
43 P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received
44 by a municipality under a regional contribution agreement
45 pursuant to section 12 of that act;

46 u. Amounts expended to meet the standards established
47 pursuant to the "New Jersey Public Employees' Occupational
48 Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

- 1 v. [Amounts appropriated for the cost of providing insurance
2 coverage for the municipality, its departments, boards, agencies,
3 commissions, officers and employees, which exceed the amount
4 appropriated therefor, in the 1985 local budget;] (Deleted by
5 amendment, P.L. , c.)
- 6 w. Amounts appropriated for expenditures resulting from the
7 impact of a hazardous waste facility as described in subsection c.
8 of section 32 of P.L.1981, c.279 (C.13:1E-80);
- 9 x. Amounts expended to aid privately owned libraries and
10 reading rooms, pursuant to R.S.40:54-35;
- 11 y. [Amounts appropriated for the cost of purchasing, leasing
12 and maintaining enhanced 9-1-1 termination equipment pursuant
13 to the provisions of P.L.1989, c.3 (C.52:17C-1 et al.); or]
14 (Deleted by amendment, P.L. , c.)
- 15 z. [Amounts appropriated for a project in a transportation
16 development district as may be provided in a project agreement
17 pursuant to the provisions of P.L.1989, c.100 (C.27:1C-1 et seq.)]
18 (Deleted by amendment, P.L. , c.);
- 19 aa. Extraordinary expenses, approved by the Local Finance
20 Board, required for the implementation of an interlocal services
21 agreement.
- 22 bb. Any expenditure mandated as a result of a natural disaster,
23 civil disturbance or other emergency that is specifically
24 authorized pursuant to a declaration of an emergency by the
25 President of the United States or by the Governor;
- 26 cc. Expenditures, approved by the Local Finance Board, for
27 the cost of services mandated by any order of court or any State
28 administrative rule, directive, order, or other legally binding
29 device.
- 30 (cf: P.L.1989, c.100, s.19)
- 31 3. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to
32 read as follows:
- 33 4. In the preparation of its budget, a county may not increase
34 the county tax levy to be apportioned among its constituent
35 municipalities in excess of 5% or the index rate, whichever is
36 less, of the previous year's county tax levy, subject to the
37 following exceptions:
- 38 a. [The amount of revenue generated by the increase in
39 valuations within the county, based solely on applying the
40 preceding year's county tax rate to the apportionment valuation
41 of new construction or improvements within the county, and such
42 increase shall be levied in direct proportion to said valuation;]
43 (Deleted by amendment, P.L. , c.)
- 44 b. Capital expenditures, including appropriations for current
45 capital expenditures, whether in the capital improvement fund or
46 as a component of a line item elsewhere in the budget, provided
47 that any such current capital expenditures would be otherwise
48 bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

1 c. (1) An increase based upon emergency temporary
2 appropriations made pursuant to N.J.S.40A:4-20 to meet an
3 urgent situation or event which immediately endangers the
4 health, safety or property of the residents of the [municipality]
5 county, and over which the governing body had no control and for
6 which it could not plan and emergency appropriations made
7 pursuant to N.J.S.40A:4-46. Emergency temporary
8 appropriations and emergency appropriations shall be approved by
9 at least two-thirds of the governing body and by the Director of
10 the Division of Local Government Services, and shall not exceed
11 in the aggregate 3% of the previous year's final current
12 operating appropriations.

13 (2) [An increase based upon special emergency appropriations
14 made pursuant to N.J.S.40A:4-53, N.J.S.40A:4-54, section 1 of
15 P.L.1961, c.22 (C.40A:4-55.1) or section 1 of P.L.1968, c.194
16 (C.40A:4-55.13). Special emergency appropriations shall be
17 approved by at least two-thirds of the governing body, and, where
18 appropriate, approved by the chief executive officer of the
19 county and the Director of the Division of Local Government
20 Services. Neither approval procedure in paragraph (1) or (2) of
21 this subsection shall apply to appropriations adopted for a purpose
22 referred to in subsection d. or j. below;] (Deleted by amendment,
23 P.L. , c. .)

24 The approval procedure in this subsection shall not apply to
25 appropriations adopted for a purpose referred to in subsection d.
26 or f. below;

27 d. All debt service;

28 e. [Expenditures mandated after the effective date of this act
29 pursuant to State or federal law;] (Deleted by amendment, P.L. ,
30 c. .)

31 f. Amounts required to be paid pursuant to (1) any contract
32 with respect to use, service or provision of any project, facility
33 or public improvement for water, sewerage, parking, senior
34 citizen housing or any similar purpose, or payments on account of
35 debt service therefor, between a county and any other county,
36 municipality, school or other district, agency, authority,
37 commission, instrumentality, public corporation, body corporate
38 and politic or political subdivision of this State; and (2) any lease
39 of a facility owned by a county improvement authority when the
40 lease payment represents the proportionate amount necessary to
41 amortize the debt incurred by the authority in providing the
42 facility which is leased, in whole or in part;

43 g. That portion of the county tax levy which represents
44 funding to participate in any federal or State aid program and
45 amounts received or to be received from federal, State or other
46 funds in reimbursement for local expenditures. If a county
47 provides matching funds in order to receive the federal or State
48 or other funds, only the amount of the match which is required by

1 law or agreement to be provided by the county shall be excepted;

2 h. (Deleted by amendment, P.L.1987, c.74.)

3 i. [Any decrease in amounts received pursuant to any federal
4 general purposes aid program from the amounts received in local
5 budget year 1982, after deducting from the decrease any amount
6 of new or increased federal or State general purposes aid
7 explicitly provided for the purpose of replacing the decrease in
8 federal aid;] (Deleted by amendment, P.L. , c. .)

9 j. [Amounts expended for the conduct of any special election
10 required by law to be held at a time other than the time of the
11 general election;] (Deleted by amendment, P.L. , c. .)

12 k. [Any additional expenditures for the testing of water
13 supplies pursuant to P.L.1983, c.443 (C.58:12A-12 et al.);]
14 (Deleted by amendment, P.L. , c. .)

15 l. Amounts expended to meet the standards established
16 pursuant to the "New Jersey Public Employees' Occupational
17 Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

18 m. [Amounts appropriated for the cost of providing insurance
19 coverage for the county, its departments, boards, agencies,
20 commissions, officers and employees, which exceed the amount
21 appropriated therefor in the 1985 local budget;] (Deleted by
22 amendment, P.L. , c. .)

23 n. [Amounts appropriated for the cost of purchasing, leasing
24 and maintaining enhanced 9-1-1 termination equipment pursuant
25 to the provisions of P.L.1989, c.3 (C.52:17C-1 et al.); or;]
26 (Deleted by amendment, P.L. , c. .)

27 o. [Amounts appropriated for a project in a transportation
28 development district as may be provided in a project agreement
29 pursuant to the provisions of P.L.1989, c.100 (C.27:1C-1 et seq.)]
30 (Deleted by amendment, P.L. , c. .).

31 (cf: P.L.1989, c.100, s.20)

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

33 7. This act shall take effect immediately and be applicable to
34 the tax years beginning in 1977 and shall expire December 31,
35 [1990] 1995.

36 (cf: P.L.1989, c.338, s.1)

37 5. (New section) In addition to the exceptions to the limit on
38 increases in final appropriations for any budget year, listed in
39 section 3 of P.L.1976, c.68 (C.40A:4-45.3), the Local Finance
40 Board shall have the authority to grant additional exceptions,
41 applicable to all municipalities and only effective for the local
42 budget year in which the exception is granted, upon a finding of
43 extraordinary circumstances that result in an unanticipated
44 increase in expenditures for a service essential to the health,
45 safety and welfare of the residents of the State.

46 6. (New section) No transfer of funds authorized by
47 N.J.S.40A:4-58 and N.J.S.40A:4-59 shall be made from an
48 appropriation which is not subject to limitation pursuant to

1 section 3 or 4 of P.L.1976, c.68 (C.40A:4-45.3 and 40A:4-45.4) to
2 an appropriation which is subject to either of those limitations.
3 Notwithstanding the provisions of N.J.S.40A:4-58 and
4 N.J.S.40A:4-59 no transfer of funds is authorized between
5 appropriations not subject to limitation pursuant to section 3 or 4
6 of P.L.1976, c.68 (C.40A:4-45.3 and 40A:4-45.4), except transfers
7 may be made to interest and redemption charges.

8 7. The following statutes are repealed:

9 P.L.1985, c.166 (C.40A:4-45.3c)

10 P.L.1984, c.227 (C.40A:4-45.24)

11 P.L.1987, c.74, s.4 (C.40A:4-45.32)

12 P.L.1987, c.74, s.5 (C.40A:4-45.33)

13 P.L.1987, c.102, s.7 (C.40A:4-45.34)

14 P.L.1987, c.102, s.8 (C.40A:4-45.35)

15 P.L.1987, c.102, s.46 (C.40A:4-45.36)

16 P.L.1987, c.102, s.47 (C.40A:4-45.37)

17 8. This act shall take effect on January 1, 1991.

18

19

20

STATEMENT

21

22 This bill revises the municipal and county cap laws by repealing
23 many exceptions to the local budget caps which have found their
24 way into the statutes through the years. The most important cap
25 exceptions are preserved, and the authority of the Local Finance
26 Board is extended to permit the board to grant a cap exception to
27 all municipalities for a local budget year upon a finding of
28 extraordinary circumstances causing an unanticipated rise in
29 expenses for services necessary to the health, safety and welfare
30 of the State's residents.

31 This bill also excludes from the cap any funds appropriated as
32 matching funds for grants made available to a municipality for a
33 specific purpose by private, non-profit organizations. Under this
34 bill the cap base (final appropriations) to be used for the
35 calculation of the 1991 local budget year allowable increases
36 would be the total appropriations, both capped and uncapped,
37 from the 1990 budget year. This bill would also extend the cap
38 law until December 31, 1995.

39

40

41

LOCAL BUDGET AND FINANCE

42

43

Revises and extends local budget cap law.

ASSEMBLY, No. 3298

STATE OF NEW JERSEY

INTRODUCED MAY 24, 1990

By Assemblyman DOYLE and Assemblywoman FORD

1 AN ACT concerning certain local expenditure limitations and
2 limitations on county tax levies, amending P.L.1976, c.68,
3 supplementing P.L.1975, c.212 (C.18A:7A-1 et seq.), and
4 repealing parts of the statutory law.

5

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

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

10 2. Beginning with the tax year 1977 municipalities, other than
11 those having a municipal purposes tax rate of \$0.10 or less per
12 \$100.00, and counties shall be prohibited from increasing their
13 final appropriations by more than 5% [or the index rate,
14 whichever is less,] over the previous year[, except within the
15 provisions set forth hereunder].

16 For the purpose of this section, in computing its final
17 appropriations for the previous year, a municipality or county
18 shall include, as part of its final appropriations:

19 a. Amounts of revenue generated by an increase in its
20 valuations based solely on applying the preceding year's local
21 purposes tax rate of the municipality to the assessed value of new
22 construction or improvements, or on applying the preceding
23 year's county tax rate to the apportionment valuation of new
24 construction or improvements, as may be appropriate;

25 b. Revenues derived in the previous year from new
26 construction, housing, health or fire safety inspection or other
27 service fees, or from any increase in any previously imposed
28 construction, housing, health, or fire safety inspection or service
29 fees imposed by State law, rule or regulation or by local
30 ordinance;

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

34 d. Increased revenue received in the preceding year from
35 payments in lieu of taxes on any property owned by a tax-exempt
36 public entity, to the extent that the payment is excepted
37 pursuant to subsection n. of section 3 of P.L. 1976, c. 68 (C.
38 40A:4-45.3).

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

Matter underlined thus is new matter.

1 In each budget year subsequent to 1981, and in the case of a
2 county, in each budget year subsequent to 1982, whenever any,
3 municipality or county shall have transferred to any local public
4 utility, any local public authority or any special purposes district,
5 during the immediately preceding budget year, or at any time
6 during the current budget year prior to the final adoption of the
7 budget, any service or function funded during the immediately
8 preceding budget year, either partially or wholly, from
9 appropriations in the municipal or county budget, the
10 municipality or county shall deduct from its final appropriations
11 upon which its permissible expenditures are calculated, or upon
12 which its permissible county tax levy is calculated, pursuant to
13 this section the amount which the municipality or county
14 expended for that service or function during the last full budget
15 year throughout which the service or function so transferred was
16 funded from appropriations in the municipal or county budget.
17 (cf: P.L.1987, c.74, s.1)

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

20 3. In the preparation of its budget a municipality shall limit
21 any increase in said budget to 5% [or the index rate, whichever is
22 less,] over the previous year's final appropriations [subject to the
23 following exceptions]:

24 a. [The amount of revenue generated by the increase in
25 valuations, based solely on applying the preceding year's general
26 tax rate of the municipality to the assessed value of new
27 construction or improvements, or by payments in lieu of taxes
28 made by a tax-exempt public entity to the extent that the
29 payment received for any single property exceeds the amount of
30 property taxes received on that property in the year immediately
31 preceding the acquisition of that property by the public entity,
32 or, in the case of State property subject to the provisions of
33 P.L.1977, c.272 (C.54:4-2.2a et seq.), to the extent that the total
34 State payment exceeds the amount received in the 1982 budget
35 year;] (Deleted by amendment, P.L. , c.)

36 b. [Capital expenditures, including appropriations for current
37 capital expenditures, whether in the capital improvement fund or
38 as a component of a line item elsewhere in the budget, provided
39 that any such current capital expenditure would be otherwise
40 bondable under the requirements of N.J.S.40A:2-21 and
41 40A:2-22;] (Deleted by amendment, P.L. , c.)

42 c. [(1) An increase based upon emergency temporary
43 appropriations made pursuant to N.J.S.40A:4-20 to meet an
44 urgent situation or event which immediately endangers the
45 health, safety or property of the residents of the municipality,
46 and over which the governing body had no control and for which it
47 could not plan and emergency appropriations made pursuant to
48 N.J.S.40A:4-46. Emergency temporary appropriations and

1 emergency appropriations shall be approved by at least
2 two-thirds of the governing body and by the Director of the
3 Division of Local Government Services, and shall not exceed in
4 the aggregate 3% of the previous year's final current operating
5 appropriations.

6 (2) An increase based upon special emergency appropriations
7 made pursuant to N.J.S.40A:4-53, N.J.S.40A:4-54, section 1 of
8 P.L.1961, c.22 (C.40A:4-55.1) or section 1 of P.L.1968, c.194
9 (C.40A:4-55.13). Special emergency appropriations shall be
10 approved by at least two-thirds of the governing body and the
11 Director of the Division of Local Government Services. Neither
12 approval procedure in paragraph (1) or (2) of this subsection shall
13 apply to appropriations adopted for a purpose referred to in
14 subsection d. or j. below;] (Deleted by amendment, P.L. , c.)

15 d. [All debt service, including that of a Type I school district;]
16 (Deleted by amendment, P.L. , c.)

17 e. [Upon the approval of the Local Finance Board in the
18 Division of Local Government Services, amounts required for
19 funding a preceding year's deficit;] (Deleted by amendment,
20 P.L. , c.)

21 f. [Amounts reserved for uncollected taxes;] (Deleted by
22 amendment, P.L. , c.)

23 g. [Expenditures mandated after the effective date of this act
24 pursuant to State or federal law;] (Deleted by amendment,
25 P.L., c.)

26 h. [Expenditure of amounts derived from new or increased
27 construction, housing, health or fire safety inspection or other
28 service fees imposed by State law, rule or regulation or by local
29 ordinance, or derived from the sale of municipal assets;] (Deleted
30 by amendment, P.L. , c.)

31 i. [Any amount approved by any referendum or any amount
32 expended to conduct a special election required by law to be held
33 at a time other than the time of a general election or regular
34 municipal election, as appropriate;] (Deleted by amendment,
35 P.L. , c.)

36 j. [Amounts required to be paid pursuant to (1) any contract
37 with respect to use, service or provision of any project, facility
38 or public improvement for water, sewerage, parking, senior
39 citizen housing or any similar purpose, or payments on account of
40 debt service therefor, between a municipality and any other
41 municipality, county, school or other district, agency, authority,
42 commission, instrumentality, public corporation, body corporate
43 and politic or political subdivision of this State; (2) the provisions
44 of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a
45 constituent municipality to the intermunicipal account; and (3)
46 any lease of a facility owned by a county improvement authority
47 when the lease payment represents the proportionate amount
48 necessary to amortize the debt incurred by the authority in

- 1 providing the facility which is leased, in whole or in part;].
2 (Deleted by amendment, P.L. , c.)
- 3 k. (Deleted by amendment, P.L.1987, c.74.)
- 4 l. [Programs funded wholly or in part by federal or State funds
5 and amounts received or to be received from federal, State or
6 other funds in reimbursement for local expenditures. If a
7 municipality provides matching funds in order to receive the
8 federal or State funds, only the amount of the match which is
9 required by law to be provided by the municipality shall be
10 excepted;] (Deleted by amendment, P.L. , c.)
- 11 m. (Deleted by amendment, P.L.1987, c.74.)
- 12 n. (Deleted by amendment, P.L.1987, c.74.)
- 13 o. [Any decrease in amounts received pursuant to any federal
14 general purposes aid program from the amounts received in local
15 budget year 1982, after deducting from the decrease any amount
16 of new or increased federal or State general purposes aid
17 explicitly provided for the purpose of replacing the decrease in
18 federal aid;] (Deleted by amendment, P.L. , c.)
- 19 p. (Deleted by amendment, P.L.1987, c.74.)
- 20 q. [Expenditures of amounts to fund the purchase of vehicles
21 used solely for police purposes by the municipal police
22 department and all equipment installed in or on the vehicles;]
23 (Deleted by amendment, P.L. , c.)
- 24 r. [Amounts expended to fund a free public library established
25 pursuant to the provisions of R.S.40:54-1 through 40:54-29,
26 inclusive;] (Deleted by amendment, P.L. , c.)
- 27 s. [Any additional expenditures for the testing of water
28 supplies pursuant to P.L.1983, c.443 (C.58:12A-12 et al.) or any
29 expenditures necessary to comply with an order or permit issued
30 by the Department of Environmental Protection for the
31 construction, improvement, repair or rehabilitation of public
32 water supply systems pursuant to P.L.1981, c.262 (C.58:1A-1 et
33 seq.);] (Deleted by amendment, P.L. , c.)
- 34 t. [Amounts expended in preparing and implementing a housing
35 element and fair share plan pursuant to the provisions of
36 P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received
37 by a municipality under a regional contribution agreement
38 pursuant to section 12 of that act;] (Deleted by amendment,
39 P.L. , c.)
- 40 u. [Amounts expended to meet the standards established
41 pursuant to the "New Jersey Public Employees' Occupational
42 Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);]
43 (Deleted by amendment, P.L. , c.)
- 44 v. [Amounts appropriated for the cost of providing insurance
45 coverage for the municipality, its departments, boards, agencies,
46 commissions, officers and employees, which exceed the amount
47 appropriated therefor, in the 1985 local budget;] (Deleted by
48 amendment, P.L. , c.)

- 1 w. [Amounts appropriated for expenditures resulting from the
2 impact of a hazardous waste facility as described in subsection c.
3 of section 32 of P.L.1981, c.279 (C.13:1E-80);] (Deleted by
4 amendment, P.L. , c.)
- 5 x. [Amounts expended to aid privately owned libraries and
6 reading rooms, pursuant to R.S.40:54-35;] (Deleted by
7 amendment, P.L. , c.)
- 8 y. [Amounts appropriated for the cost of purchasing, leasing
9 and maintaining enhanced 9-1-1 termination equipment pursuant
10 to the provisions of P.L.1989, c.3 (C.52:17C-1 et al.); or] (Deleted
11 by amendment, P.L. , c.)
- 12 z. [Amounts appropriated for a project in a transportation
13 development district as may be provided in a project agreement
14 pursuant to the provisions of P.L.1989, c.100 (C.27:1C-1 et seq.)]
15 (Deleted by amendment, P.L. , c.).
16 (cf:P.L.1989, c.100, s.19)
- 17 3. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to
18 read as follows:
- 19 4. In the preparation of its budget, a county may not increase
20 the county tax levy to be apportioned among its constituent
21 municipalities in excess of 5% [or the index rate, whichever is
22 less,] of the previous year's county tax levy[, subject to the
23 following exceptions:].
- 24 a. [The amount of revenue generated by the increase in
25 valuations within the county, based solely on applying the
26 preceding year's county tax rate to the apportionment valuation
27 of new construction or improvements within the county, and such
28 increase shall be levied in direct proportion to said valuation;]
29 (Deleted by amendment, P.L. , c.)
- 30 b. [Capital expenditures, including appropriations for current
31 capital expenditures, whether in the capital improvement fund or
32 as a component of a line item elsewhere in the budget, provided
33 that any such current capital expenditures would be otherwise
34 bondable under the requirements of N.J.S.40A:2-21 and
35 40A:2-22;] (Deleted by amendment, P.L. , c.)
- 36 c. [(1) An increase based upon emergency temporary
37 appropriations made pursuant to N.J.S.40A:4-20 to meet an
38 urgent situation or event which immediately endangers the
39 health, safety or property of the residents of the municipality,
40 and over which the governing body had no control and for which it
41 could not plan and emergency appropriations made pursuant to
42 N.J.S.40A:4-46. Emergency temporary appropriations and
43 emergency appropriations shall be approved by at least
44 two-thirds of the governing body and by the Director of the
45 Division of Local Government Services, and shall not exceed in
46 the aggregate 3% of the previous year's final current operating
47 appropriations.
- 48 (2) An increase based upon special emergency appropriations

- 1 made pursuant to N.J.S.40A:4-53, N.J.S.40A:4-54, section 1 of
2 P.L. 1961, c.22 (C.40A:4-55.1) or section 1 of P.L.1968, c.194
3 (C.40A:4-55.13). Special emergency appropriations shall be
4 approved by at least two-thirds of the governing body, and, where
5 appropriate, approved by the chief executive officer of the
6 county and the Director of the Division of Local Government
7 Services. Neither approval procedure in paragraph (1) or (2) of
8 this subsection shall apply to appropriations adopted for a purpose
9 referred to in subsection d. or j. below;] (Deleted by amendment,
10 P.L. , c.)
- 11 d. [All debt service;] (Deleted by amendment, P.L., c.)
- 12 e. [Expenditures mandated after the effective date of this act
13 pursuant to State or federal law;] (Deleted by amendment,
14 P.L. , c.)
- 15 f. [Amounts required to be paid pursuant to (1) any contract
16 with respect to use, service or provision of any project, facility
17 or public improvement for water, sewerage, parking, senior
18 citizen housing or any similar purpose, or payments on account of
19 debt service therefor, between a county and any other county,
20 municipality, school or other district, agency, authority,
21 commission, instrumentality, public corporation, body corporate
22 and politic or political subdivision of this State; and (2) any lease
23 of a facility owned by a county improvement authority when the
24 lease payment represents the proportionate amount necessary to
25 amortize the debt incurred by the authority in providing the
26 facility which is leased, in whole or in part;] (Deleted by
27 amendment, P.L. , c.)
- 28 g. [That portion of the county tax levy which represents
29 funding to participate in any federal or State aid program and
30 amounts received or to be received from federal, State or other
31 funds in reimbursement for local expenditures. If a county
32 provides matching funds in order to receive the federal or State
33 funds, only the amount of the match which is required by law to
34 be provided by the county shall be excepted;] (Deleted by
35 amendment, P.L. , c.)
- 36 h. (Deleted by amendment, P.L.1987, c.74.)
- 37 i. [Any decrease in amounts received pursuant to any federal
38 general purposes aid program from the amounts received in local
39 budget year 1982, after deducting from the decrease any amount
40 of new or increased federal or State general purposes aid
41 explicitly provided for the purpose of replacing the decrease in
42 federal aid;] (Deleted by amendment, P.L. , c.)
- 43 j. [Amounts expended for the conduct of any special election
44 required by law to be held at a time other than the time of the
45 general election;] (Deleted by amendment, P.L. , c.)
- 46 k. [Any additional expenditures for the testing of water
47 supplies pursuant to P.L.1983, c.443 (C.58:12A-12 et al.);]
48 (Deleted by amendment, P.L. , c.)

1 l. [Amounts expended to meet the standards established
 2 pursuant to the "New Jersey Public Employees' Occupational
 3 Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);]
 4 (Deleted by amendment, P.L. , c.)

5 m. [Amounts appropriated for the cost of providing insurance
 6 coverage for the county, its departments, boards, agencies,
 7 commissions, officers and employees, which exceed the amount
 8 appropriated therefor in the 1985 local budget;] (Deleted by
 9 amendment, P.L. , c.)

10 n. [Amounts appropriated for the cost of purchasing, leasing
 11 and maintaining enhanced 9-1-1 termination equipment pursuant
 12 to the provisions of P.L.1989, c.3 (C.52:17C-1 et al.); or;]
 13 (Deleted by amendment, P.L. , c.)

14 o. [Amounts appropriated for a project in a transportation
 15 development district as may be provided in a project agreement
 16 pursuant to the provisions of P.L.1989, c.100 (C.27:1C-1 et seq.)]
 17 (Deleted by amendment, P.L. , c.).

18 (cf:P.L.1989, c.100, s.20)

19 4. (New Section) Beginning with the 1991-1992 school year, a
 20 school district shall limit any increase in its adjusted net current
 21 expense budget and any increase in budgeted capital outlay to 5%
 22 over the previous year.

23 5. The following statutes are repealed:

24 P.L.1975, c.212, s.25 (C.18A:7A-25)

25 P.L.1979, c.268 (C.40A:4-45.3a)

26 P.L.1981, c.56, s.3 (C.40A:4-45.4a)

27 P.L.1981, c.61, ss.1,2 (C.40A:4-45.7 and 40A:4-45.8)

28 P.L.1981, c.64, s.2 (C.40A:4-45.3b)

29 P.L.1981, c.155 (C.40A:4-45.9)

30 P.L.1981, c.489, s.9 (C.40:33-13.2l)

31 P.L.1983, c.49, s.4 (C.40A:4-45.1a)

32 P.L.1983, c.49, ss.1,3,7,8 (C.40A:4-45.12 to 40A:4-45.15)

33 P.L.1983, c.69 (C.40A:4-45.3a1)

34 P.L.1984, c.227 (C.40A:4-45.24)

35 P.L.1985, c.166 (C.40A:4-45.3c)

36 P.L.1985, c.372, s.8 (C.18A:6-33.13)

37 P.L.1987, c.74, ss.4,5 (C.40A:4-45.32 and 40A:4-45.33)

38 P.L.1987, c.102, ss.7,8,46,47 (C.40A:4-45.34 to 40A:4-45.37)

39 6. This act shall take effect on January 1 following enactment.

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STATEMENT

43

44 This bill restricts spending increases to five percent over the
 45 levels of the previous year for municipal appropriations, county
 46 tax levies and school district adjusted net current expense
 47 budgets and budgeted capital outlay.

48

This bill repeals the exceptions to the municipal and county

1 "cap" laws which have been enacted over the years. While the
2 "cap" laws were initially enacted to limit spending and increases
3 in property tax levies, the aforementioned exceptions have
4 largely circumvented this purpose.

5 This bill also repeals the existing school district budget
6 limitation section and replaces it with a straight five percent cap
7 on increases in adjusted net current expense budget and budgeted
8 capital outlay over the previous year's levels.

9

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11

LOCAL BUDGET AND FINANCE

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14

Repeals exceptions from budget limitations imposed upon
municipalities, counties and school districts.