

27:1C-1 to 27:1C-18

LEGISLATIVE HISTORY CHECKLIST

NJSA: 27:1C-1 to 27:1C-18; 40A:4-45.3 and 40A:4-45.4 "NJ Transportation Development District Act"

LAWS OF: 1989 CHAPTER: 100

BILL NO: S19

SPONSOR(S): Rand

Date Introduced: Pre-filed

Committee: Assembly: -----

Senate: Revenue, Finance and Appropriations, Transportation and Communications.

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: May 18, 1989

Senate: April 24, 1989

Date of Approval: June 26, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes 2-23-89 and 2-6-89

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: Yes

974.90 New Jersey. Legislature. Senate. County and Municipal Government  
T764 Committee.

1987c Public hearing on "Transplan"  
bills proposed by the Department of Transportation, held 9-2-87.  
Old Bridge, 1987.

(OVER)

974.90 New Jersey. Legislature. Senate. Transportation and Communications  
T764 Committee.  
1987d Public hearing, held 4-6-87, Trenton, 1987.

See newspaper clippings-- attached.

"Transplan districts: too late for region?" 6-27-89 Home News.  
"Developers 'enlisted' in the war on traffic," 6-27-89 Star Ledger.  
"Law should ease traffic . . ." 6-27-89 Trenton Times.

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[THIRD REPRINT]

SENATE, No. 19

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator RAND

1 AN ACT concerning the financing of transportation  
improvements in growth corridors, <sup>1</sup>[and]<sup>1</sup> <sup>3</sup>amending  
3 P.L.1976, c.68,<sup>3</sup> supplementing Title 27 of the Revised  
Statutes <sup>1</sup>and making an appropriation<sup>1</sup>.

5

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

<sup>2</sup>[1. This act shall be known and may be cited as the "New  
9 Jersey Transportation Development District Act of 1988."]<sup>2</sup>

<sup>2</sup>[2. The Legislature finds and declares that:

11 a. In recent years, New Jersey has experienced explosive  
growth in certain regions, often along State highway routes <sup>1</sup>and  
13 in urban areas experiencing rapid redevelopment<sup>1</sup>. These  
"growth corridors" and "growth districts" are vital to the  
15 State's future but also present special problems and needs.

17 b. Growth corridors and districts are heavily dependent on  
the State's transportation system for their current and future  
development. At the same time, they place enormous burdens  
19 on existing transportation infrastructure, contiguous to new  
development and elsewhere, creating demands for expensive  
21 improvements, reducing the ability of State highways to provide  
for through movement of traffic and creating constraints <sup>1</sup>[to]  
23 on<sup>1</sup> future development.

25 c. Existing financial resources and existing mechanisms for  
securing financial commitments for transportation  
improvements are inadequate to meet transportation  
27 improvement needs which are the result of rapid development in  
growth areas, and therefore it is appropriate for the State to  
29 make special provisions for the financing of needed  
transportation improvements in these areas, including, the  
31 creation of special financing districts and the assessment of  
special fees on those developments which are responsible for the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate STC committee amendments adopted December 8, 1988.

<sup>2</sup> Senate STC committee amendments adopted February 6, 1989.

<sup>3</sup> Senate SRF committee amendments adopted February 23, 1989.

1 added burdens on the transportation system. <sup>1</sup>Any fees assessed  
3 for this purpose should be assessed under a statutory plan which  
5 recognizes that: (1) the fees supplement, but do not replace, the  
7 public investment needed in the transportation system, (2) the  
9 costs of remedying existing problems cannot be charged to a  
11 new development, (3) the fee charged to any particular  
13 development must be reasonably related, within the context of a  
15 practicable scheme for assessing fees within a district, to the  
17 added burden attributable to that development, and (4) the  
19 maximum amount of fees charged to any development by the  
21 State or county or municipality for off-site transportation  
23 improvements pursuant to this act or any other law shall not  
25 exceed the property owner's fair share of such improvement  
27 costs. In determining the reasonableness of a fee assessed in  
accordance with the provisions of this act, it must be recognized  
that government must have the flexibility necessary to deal  
realistically with questions not susceptible of exact  
measurement. It is furthermore necessary to recognize that  
precise mathematical exactitude in the establishment of fees is  
neither feasible nor constitutionally vital.

21 d. The development of special financial mechanisms to meet  
23 the needs of growth corridors and districts should be  
25 accompanied by the development of strategies to improve  
27 regional, comprehensive planning in these areas, to encourage  
transportation-efficient land uses, to reduce automobile  
dependency, and to encourage alternatives to peak-hour  
automobile trips.<sup>1</sup><sup>2</sup>

29 <sup>2</sup>[3. The following words or terms as used in this act shall  
31 have the following meaning unless a different meaning clearly  
33 appears from the context:

31 a. "Commissioner" means the Commissioner of Transportation.

33 b. "Department" means the Department of Transportation.

35 c. "Development" means "development" in the meaning of  
37 section <sup>1</sup>[31] 3.1<sup>1</sup> of the "Municipal Land Use Law," P.L.1975,  
c.291 (C.40:55D-4) <sup>1</sup>[,for which a construction permit has been  
issued pursuant to section 12 of P.L.1975, c.217  
(C.52:27D-130)]<sup>1</sup>.

39 d. "Development assessment liability date" means <sup>1</sup>[a date  
specified in an ordinance or resolution, as appropriate, adopted  
under section 7 of this act, which shall be either the effective

1 date of the ordinance or resolution, as appropriate, or a  
2 specified date not more than 10 years prior to the effective date  
3 of the ordinance or resolution, as appropriate] , with respect to  
4 any transportation development district created under this act,  
5 the date upon which the commissioner adopts an order  
6 designating the district and delineating its boundaries, which  
7 order shall be published in the New Jersey Register<sup>1</sup>.

8 e. "Development fee" means a fee assessed on a development  
9 pursuant to an ordinance or resolution, as appropriate, adopted  
10 under section 7 of this act.

11 f. "Public highways" means public roads, streets, expressways,  
12 freeways, parkways, motorways and boulevards, including  
13 bridges, tunnels, overpasses, underpasses, interchanges, rest  
14 areas, express bus roadways, bus pullouts and turnarounds,  
15 park-ride facilities, traffic circles, grade separations, traffic  
16 control devices, the elimination or improvement of crossings of  
17 railroads and highways, whether at grade or not at grade, and  
18 any facilities, equipment, property, rights-of-way, easements  
19 and interests therein needed for the construction, improvement  
20 and maintenance of highways.

21 g. "Public transportation project" means, in connection with  
22 public transportation service or regional ridesharing programs,  
23 passenger stations, shelters and terminals, automobile parking  
24 facilities, ramps, track connections, signal systems, power  
25 systems, information and communication systems, roadbeds,  
26 transit lanes or rights of way, equipment storage and servicing  
27 facilities, bridges, grade crossings, rail cars, locomotives,  
28 motorbus and other motor vehicles, maintenance and garage  
29 facilities, revenue handling equipment and any other equipment,  
30 facility or property useful for or related to the provision of  
31 public transportation service or regional ridesharing programs.

32 h. "Transportation development district" or "district" means  
33 a district created under section 4 <sup>1</sup>or section 13<sup>1</sup> of this act.

34 i. "Transportation project" means, in addition to public  
35 highways and public transportation projects, any equipment,  
36 facility or property useful or related to the provision of any  
37 ground, waterborne or air transportation for the movement of  
38 people and goods.]<sup>2</sup>

39 <sup>2</sup>[4. a. The governing body of any county may, by ordinance

1 or resolution, as appropriate, apply to the commissioner for the  
2 designation and delineation of a transportation development  
3 district within the boundaries of the county. The application  
4 shall include: (1) proposed boundaries for the district, (2)  
5 evidence of growth conditions prevailing in the proposed district  
6 which justify creation of a transportation development district  
7 in conformity with the purposes of this act, especially as  
8 expressed in subsection c. of section 2 of this act, (3) a  
9 description of transportation needs arising from rapid  
10 development within the district, (4) certification that there is in  
11 effect for the county a current county master plan adopted  
12 under R.S.40:27-2 and that creation of the district would be in  
13 conformity both with the county master plan and with the State  
14 Development and Redevelopment Plan adopted under the "State  
15 Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), and (5) any  
16 additional information that the commissioner may require.

17 b. The commissioner shall, within 90 days of receipt of a  
18 completed application and upon review of the application as to  
19 sufficiency and conformity with the purposes of this act, (1) by  
20 order designate a district and delineate its boundaries in  
21 conformance with the application, or (2) disapprove the  
22 application and inform the governing body of the county in  
23 writing of the reasons for the disapproval <sup>1</sup>, or (3) where the  
24 commissioner finds that the creation of a district is critically  
25 important and that the application of the county is sufficient in  
26 every respect except the appropriateness of the proposed  
27 boundaries for the district, by order designate a district and  
28 delineate its boundaries and inform the governing body of the  
29 county in writing of the reasons for the alteration of the  
30 proposed boundaries<sup>1</sup>. The governing body may, in the case of a  
31 disapproval of its application, resubmit an application  
32 incorporating whatever revisions it deems appropriate, taking  
33 into consideration the commissioner's reasons for disapproval.

34 <sup>1</sup>c. If the governing body of the county in response to a  
35 petition by a municipality under section 15 of this act adopts an  
36 ordinance or resolution, as appropriate, stating its intention not  
37 to proceed with an application or adopts an ordinance or  
38 resolution, as appropriate, stating its intention to proceed with  
39 an application but fails to submit such an application within 180

1 days of adopting that ordinance or resolution, as appropriate,  
2 the governing body of the municipality which submitted the  
3 original petition or the governing body of any municipality  
4 within the county which would be directly affected by the  
5 designation and delineation of a district may petition the  
6 commissioner for the designation and delineation of a district.  
7 The commissioner shall, within 90 days of receipt of a petition  
8 and upon review of the petition as to sufficiency and conformity  
9 with the purposes of this act, (1) by order designate a district  
10 and delineate its boundaries or (2) disapprove the petition and  
11 inform the petitioning body in writing of the reasons for the  
12 disapproval. The petitioning body may, in the case of a  
13 disapproval of its application, resubmit a petition incorporating  
14 whatever revisions it deems appropriate, taking into  
15 consideration the commissioner's reasons for disapproval.

16 d. The commissioner shall adopt as a regulation under the  
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
18 seq.) standards to assist in the determination of whether there is  
19 sufficient evidence of growth conditions prevailing in an area to  
20 justify creation of a transportation development district under  
21 this act. The criteria for assisting in the determination shall  
22 include: (1) an accelerating growth rate for estimated  
23 population or employment in excess of 10% in three of the past  
24 five years in at least three contiguous municipalities; or, (2)  
25 projected local traffic growth in excess of 50% in a five-year  
26 period generated from new development; or, (3)  
27 commercial/retail development projected at a rate of 1 million  
28 square feet per square mile in a five-year period; or, (4)  
29 projected growth in population or in employment in excess of  
30 20% over a 10-year period. The regulations shall specify the  
31 application of the time periods under these four criteria.<sup>1</sup><sup>2</sup>

32 <sup>2</sup>[5. a. Following the commissioner's designation and  
33 delineation of a district under section 4 of this act, the  
34 governing body of the county shall initiate a joint planning  
35 process for the district, with opportunity for participation by  
36 State, county, municipal and private representatives. The joint  
37 planning process shall produce a draft district transportation  
38 improvement plan and a draft financial program.

39 b. The draft district transportation improvement plan shall

1 establish goals and priorities for all modes of transportation  
2 within the district, shall incorporate the relevant plans of all  
3 transportation agencies within the district and shall contain a  
4 program of transportation projects which addresses  
5 transportation needs arising from rapid growth conditions  
6 prevailing in the district and which therefore warrants financing  
7 in whole or in part from a trust fund to be established under  
8 section 7 of this act <sup>1</sup>, and shall provide for the assessment of  
9 development fees based upon the applicable formula as  
10 established by the commissioner by regulation<sup>1</sup>. The draft  
11 district transportation improvement plan shall be <sup>1</sup>[consistent]  
12 in accordance<sup>1</sup> with the State transportation master plan  
13 adopted under section 5 of P.L.1966, c.301 (C.27:1A-5), the  
14 county master plan adopted under R.S.40:27-2<sup>1,1</sup> and <sup>1</sup>shall be  
15 coordinated with<sup>1</sup> the State Development and Redevelopment  
16 Plan adopted under the "State Planning Act," P.L.1985, c.398  
17 (C.52:18A-196 et al.).

18 c. The draft financial program shall include an identification  
19 of projected available financial resources for financing district  
20 transportation projects outlined in the draft district  
21 transportation improvement plan, including recommendations  
22 for types and rates of development fees to be assessed under  
23 section 7 of this act, and projected annual revenue to be derived  
24 therefrom.

25 d. The governing body of the county shall make copies of the  
26 draft district transportation improvement plan and the draft  
27 financial program available to the public for inspection and shall  
28 hold a public hearing on them.]<sup>2</sup>

29 <sup>2</sup>[6. a. The governing body of any county which has  
30 completed all the requirements of section 5 of this act may, by  
31 ordinance or resolution, as appropriate, adopt a district  
32 transportation improvement plan. The district transportation  
33 improvement plan shall be derived from the draft district  
34 transportation improvement plan developed under section 5 of  
35 this act and shall contain a program of transportation projects  
36 intended to be financed over time in whole or in part from a  
37 trust fund to be established under section 7 of this act. The  
38 district transportation improvement plan shall be incorporated  
39 into the capital improvements program required to be adopted



1 under P.L....., c..... (C.....) (now pending before the  
Legislature as Senate Bill No. 664 and Assembly Bill No. 2306 of  
3 1988) and shall be consistent with any transportation  
improvement program which the county may be required to  
5 submit to the department.

b. No ordinance or resolution, or amendment or supplement  
7 thereto, adopted under this section shall be effective until  
approved by the commissioner. In evaluating the district  
9 transportation improvement plan, the commissioner shall take  
into consideration: (1) the appropriateness of the district  
11 boundaries in light of the findings of the plan, (2) the  
appropriateness of the content and timing of the program of  
13 projects intended to be financed in whole or in part from the  
district trust fund in relation to the transportation needs  
15 stemming from rapid growth in the district, (3) the hearing  
record of the public hearing held prior to adoption of the  
17 ordinance, and (4) any written comment submitted by  
municipalities or other parties. The commissioner shall  
19 complete the review of the ordinance or resolution and shall  
inform the governing body, in writing of the approval or  
21 disapproval thereof within 180 days of receipt. The written  
notice shall be accompanied, in the case of approval, by the  
23 commissioner's estimate of the resources which may be made  
available under this act and from other sources to support  
25 implementation of the plan and, in the case of disapproval, by  
the reasons for that disapproval. The governing body may, in  
27 the case of a disapproval, resubmit an ordinance or resolution,  
as appropriate, or amendment or supplement thereto,  
29 incorporating whatever revisions it deems appropriate, taking  
into consideration the commissioner's reasons for disapproval.]<sup>2</sup>

31 <sup>2</sup>[7. a. After the effective date of an ordinance or  
resolution, as appropriate, adopted under section 6 of this act,  
33 the governing body of the county may provide, by ordinance or  
resolution, as appropriate, for the assessment and collection of  
35 development fees on developments within the district <sup>1</sup>[,  
including those developments which consist of a change of use  
37 on previously developed property]<sup>1</sup>.

b. The ordinance or resolution, as appropriate, shall specify  
39 <sup>1</sup>[whether the fee is a one-time fee, to be assessed and

1 collected once, or an annual fee, to be assessed annually and  
collected not more often than quarterly.

3 c. The ordinance or resolution, as appropriate, shall specify a  
development assessment liability date. Developments occurring  
5 after the development assessment liability date shall be liable  
for assessment on the effective date of the ordinance or on the  
7 date of development, whichever is later. Developments for  
which a construction permit is issued before the development  
9 assessment liability date shall not be liable for assessment.

d.] that the fee shall be assessed on a development at the time  
11 that the development receives preliminary approval from the  
municipal approval authority or, where the municipality has not  
13 enacted an ordinance requiring approval of the development, at  
the time that a construction permit is issued. If the  
15 development is to be constructed in phases or there is a  
substantial modification of preliminary approval as defined in  
17 the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et  
seq.), the fee shall be assessed at the time of the preliminary  
19 approval of the respective phase or at the time of modification,  
as the case may be. For a development which has received  
21 preliminary plan approval prior to the adoption of the ordinance  
and where final approval is not obtained for that phase of  
23 development within three years of preliminary approval, the fee  
shall be assessed at the time of final approval.

25 c. The ordinance or resolution, as appropriate, shall specify  
whether the fee is to be paid at the time a construction permit  
27 is issued or in a series of payments, as set forth in a schedule of  
payments contained in the ordinance or resolution, as  
29 appropriate. The ordinance or resolution, as appropriate, may  
provide for payment of the fee in a series of periodic payments  
31 over a period of no longer than 20 years. The payments due to  
the county, whether as a lump sum or as balances due, where a  
33 series of payments is to be made, shall be enforceable by the  
county as a lien on the land and any improvements thereon  
35 which lien shall be recorded by the county fiscal officer in the  
record book of the appropriate county office. Any ordinance or  
37 resolution, as appropriate, shall set forth the procedures for  
enforcement of the lien in the event of delinquencies. When the  
39 fee is paid in full on the development or portion thereof, the lien

1 on the development or portion thereof, as appropriate, shall be  
2 removed. Where a series of payments is to be made, failure to  
3 make any one payment within 30 days after receipt of a notice  
4 of late payment shall constitute a default and shall obligate the  
5 person owing the unpaid balance to pay that balance in its  
6 entirety.

7 d. Any development or phase thereof which has received  
8 preliminary approval prior to the development assessment  
9 liability date shall not be subject to the assessment and  
10 collection of a development fee under this act but shall be liable  
11 for the payment of off-site transportation improvements to the  
12 extent agreed upon under the applicable law, rule, regulation,  
13 ordinance or resolution in effect at the time of the agreement.  
14 Any development or phase thereof which receives preliminary  
15 approval after the development liability assessment date shall  
16 be subject to the assessment and collection of a development  
17 fee under this act, but shall receive a credit against the fee for  
18 the amount paid or obligated to be paid to State, county or  
19 municipal agencies for the cost of off-site transportation  
20 improvements under agreements entered into under the  
21 applicable law, rule, regulation, ordinance or resolution in effect  
22 at the time of the agreement.

23 e.<sup>1</sup> The ordinance or resolution, as appropriate, also shall  
24 provide for the establishment of a transportation development  
25 district trust fund under the control of the county treasurer <sup>1</sup>or  
26 such other officer as appropriate<sup>1</sup>. All monies collected  
27 pursuant to the ordinance or resolution, as appropriate, shall be  
28 deposited into the trust fund <sup>1</sup>which is to be invested in an  
29 interest bearing account<sup>1</sup>.

30 <sup>1</sup>[e.] f.<sup>1</sup> An ordinance or resolution, as appropriate, adopted  
31 under this section also may contain provisions for: (1)  
32 delineating a core area within the district within which the  
33 conditions justifying creation of the district are most acute and  
34 providing for a reduced development fee rate to apply <sup>1</sup>[outside]  
35 inside<sup>1</sup> that core area; (2) credits against assessed development  
36 fees for payments made or expenses incurred which have been  
37 determined by the governing body of the county to be in  
38 furtherance of the district transportation improvement plan,  
39 including but not limited to, contributions to transportation

1 improvements, other than those required for safe and efficient  
2 highway access to a development, and costs attributable to the  
3 promotion of public transit or ridesharing; (3) exemptions from  
4 or reduced rates for development fees for specified land uses  
5 which <sup>1</sup>[has] have<sup>1</sup> been determined by the governing body of  
6 the county to have a beneficial, neutral or comparatively minor  
7 adverse impact on the transportation needs of the district;  
8 <sup>1</sup>[and]<sup>1</sup> (4) a reduced rate of development fees for developments  
9 for which construction permits were issued after the  
10 development assessment liability date but before the effective  
11 date of the ordinance or resolution, as appropriate, where those  
12 dates are different<sup>1</sup>; (5) a reduced rate of development fees for  
13 developers submitting a peak-hour automobile trip reduction  
14 plan approved by the commissioner under standards adopted by  
15 the commissioner by regulation. Standards for the approval of  
16 peak-hour automobile trip reduction plans may include, but need  
17 not be limited to, physical design for improved transit,  
18 ridesharing, and pedestrian access; incorporation of residential  
19 uses into predominantly nonresidential development; and  
20 proximity to potential labor pools; and (6) exemptions from  
21 assessment for low and moderate income housing units which are  
22 constructed pursuant to the "Fair Housing Act," P.L.1985, c.222  
23 (C.52:27D-301 et seq.) or under court settlement.

24 g. An ordinance or resolution, as appropriate, shall specify  
25 that any fees collected, plus earned interest, not committed to a  
26 transportation project under a project agreement entered into  
27 under section 9 of this act within 10 years of the date of  
28 collection shall be refunded to the feepayer under a procedure  
29 prescribed by the commissioner by regulation for this purpose,  
30 except that if the payer of the fee transfers the development or  
31 any portion thereof, he shall enter into an agreement with the  
32 grantee in such form as shall be provided by regulation of the  
33 commissioner which shall indicate who shall be entitled to  
34 receive any refund, and such agreement shall be filed with the  
35 designated county officer.

36 h. An ordinance or resolution, as appropriate, shall be  
37 sufficiently certain and definitive to enable every person who  
38 may be required to pay a fee to know or calculate the limit and  
39 extent of the fee which will be assessed against a specific

1 development proposal. Development fees shall be reasonably  
2 related to the added traffic growth attributable to the  
3 development which is subject to the assessment and the  
4 maximum amount of fees for transportation improvements that  
5 may be charged to any development by the State, county or  
6 municipality pursuant to this act or any other law shall not  
7 exceed the property owner's "fair share" of such improvement  
8 costs. "Fair share" means the added traffic growth attributable  
9 to the proposed development or phase thereof. Approval of a  
10 development application by any State, county or municipal body  
11 or agency shall not be withheld or delayed because of the  
12 necessity to construct an off-site transportation improvement if  
13 the developer has satisfied his "fair share" obligation under the  
14 provisions of this act.

15 i. Any person who has been assessed a development fee under  
16 the provisions of an ordinance or resolution adopted pursuant to  
17 this section may appeal the assessment by filing an appeal with  
18 the commissioner within 90 days of the receipt of notification of  
19 the amount of the assessment, on the grounds that the governing  
20 body or its officers or employees in issuing the assessment did  
21 not abide by the provisions of this act or the provisions of the  
22 ordinance or resolution issued hereunder or of the rules and  
23 regulations adopted by the commissioner pursuant to this act.  
24 The decision of the commissioner constitutes an administrative  
25 action subject to review by the Appellate Division of the  
26 Superior Court. Nothing contained herein shall be construed as  
27 limiting the ability of any person so assessed from filing an  
28 appeal based upon an agreement to pay or actual payment of the  
29 fee<sup>1</sup>.]<sup>2</sup>

30 <sup>2</sup>[8. An ordinance or resolution, as appropriate, adopted under  
31 section 7 of this act shall provide for the assessment of  
32 development fees based upon <sup>1</sup>[ one or more of the following  
33 criteria:

34 a. A vehicle trip fee, based on the number of vehicle trips  
35 generated by the development;

36 b. A square footage fee, based on the occupied square  
37 footage of a developed structure;

38 c. An employee fee, based on the number of employees  
39 regularly employed at the development;

1 d. A parking space fee, based on the number of parking  
spaces located at the development; or

3 e. Any other fee, approved by the commissioner, which is  
related to trip generation or impact on the transportation  
5 system] the formula for that category of district authorized by  
the commissioner, by regulation, and uniformly applied, with  
7 such exceptions as are authorized by this act and by regulation.  
The commissioner may authorize a formula, or formulas relating  
9 the amount of the fee to impact on the transportation system,  
including, but not limited to, the following factors: vehicle trips  
11 generated by the development, the occupied square footage of a  
developed structure, the number of employees regularly  
13 employed at the development, and the number of parking spaces  
located at the development. In developing the authorized  
15 formula or formulas the commissioner shall consult with  
knowledgeable persons in appropriate fields, which may include,  
17 but need not be limited to, land use law, planning, traffic  
engineering, real estate development, transportation, and local  
19 government. No separate or additional assessments for off-site  
transportation improvements within the district shall be made  
21 by the State, or a county or municipality except as provided in  
this act<sup>1</sup>.]<sup>2</sup>

23 <sup>1</sup>[9. Computation of fees due under any development fee  
assessed under an ordinance or resolution, as appropriate,  
25 adopted under section 7 of this act shall be made according to  
uniform standards adopted by regulation by the commissioner.]<sup>1</sup>

27 <sup>2</sup>[<sup>1</sup>[10.] 9.<sup>1</sup> Every transportation project funded in whole or in  
part by funds from a transportation development district trust  
29 fund shall be subject to a project agreement to which the  
commissioner is a party. Every transportation project for which  
31 a project agreement has been executed shall be included in a  
district transportation improvement plan adopted by an  
33 ordinance or resolution, as appropriate, under section 6 of this  
act. A project agreement may include other parties, including  
35 but not limited to, municipalities and developers. A project  
agreement shall provide for the assignment of financial  
37 obligations among the parties, and those provisions for  
discharging respective financial obligations as the parties shall  
39 agree upon. A project agreement also shall make provision for

1 those arrangements among the parties as are necessary and  
convenient for undertaking and completing a transportation  
3 project. A project agreement may provide that a county may  
pledge funds in a transportation development district trust fund  
5 or revenues to be received from development fees for the  
repayment of debt incurred under any debt instrument which the  
7 county may be authorized by law to issue. Each project  
agreement shall be authorized by and entered into pursuant to  
9 an ordinance or resolution, as appropriate, of the governing body  
having charge of the finances of each county and municipality  
11 which is a party to the project agreement. Any project  
agreement may be made with or without consideration and for a  
13 specified or an unlimited time and on any terms and conditions  
which may be approved by or on behalf of the county or  
15 municipality and shall be valid whether or not an appropriation  
with respect thereto is made by the county or municipality prior  
17 to the authorization or execution thereof. Every county and  
municipality is authorized and directed to do and perform any  
19 and all acts or things necessary, convenient or desirable to carry  
out and perform every project agreement.]<sup>2</sup>

21 <sup>2</sup>[<sup>1</sup>[11.] 10.<sup>1</sup> No expenditure of funds shall be made from a  
transportation development district trust fund except by  
23 appropriation by the governing body of the county and upon  
certification of the county treasurer that the expenditure is in  
25 accordance with a project agreement entered into under section  
<sup>1</sup>[10] 9<sup>1</sup> of this act. Notwithstanding the provisions of P.L.1976,  
27 c.68 (C.40A:4-45.1 et seq.) to the contrary, there shall be  
exempted from the final appropriations of a county, subject to  
29 the spending limitations imposed thereunder, any appropriations  
made by the county in accordance with this section or any  
31 payments made by the county pursuant to a project agreement  
authorized in accordance with section <sup>1</sup>[10] 9<sup>1</sup> of this act.]<sup>2</sup>

33 <sup>2</sup>[<sup>1</sup>[12.] 11.<sup>1</sup> The commissioner may, subject to the  
availability of appropriations for this purpose and pursuant to a  
35 project agreement entered into under section <sup>1</sup>[10] 9<sup>1</sup> of this  
act, make loans to a party to a project agreement for the  
37 purpose of undertaking and completing a transportation project.  
In this event, the project agreement shall include the obligation  
39 of the governing body of the county to make payments to the

1 commissioner for repayment of the loan according to an agreed  
upon schedule of payments. The commissioner may receive  
3 monies from a county for repayment of a loan and pay these  
monies, or assign his right to receive them, to the New Jersey  
5 Transportation Trust Fund Authority, created pursuant to  
section 4 of P.L.1984, c.73 (C.27:1B-4), in reimbursement of  
7 funds paid to him by that authority for the purpose of making  
loans pursuant to this section.]<sup>2</sup>

9 <sup>2</sup>[<sup>1</sup>[13.] 12.<sup>1</sup> The governing bodies of two or more counties  
which have established, or propose to establish, adjoining  
11 transportation development districts, and which have  
determined that joint or coordinated planning or implementation  
13 of transportation projects would be beneficial, may enter into  
joint arrangements under this act, including: (1) filing joint  
15 applications under section 4 of this act, (2) initiating a  
coordinated joint planning process under section 5 of this act, (3)  
17 adopting coordinated district transportation improvement plans  
under section 6 of this act and (4) entering into joint project  
19 agreements under section <sup>1</sup>[10] 9<sup>1</sup> of this act.]<sup>2</sup>

<sup>2</sup>[<sup>1</sup>13. a. After due examination the commissioner may find,  
21 in accordance with regulations adopted pursuant to subsection d.  
of section 4 of this act, that certain designated areas of the  
23 State are growth corridors or growth areas as discussed in  
section 2 of this act and that existing financial resources and  
25 existing mechanisms for securing financial commitments for  
transportation improvements are inadequate to meet  
27 transportation improvement needs which are the result of rapid  
development in these corridors or areas. Upon this finding and  
29 after sufficient time has elapsed for the governing body of the  
county or counties located within this corridor or area to take  
31 action to establish a district or districts therein pursuant to the  
provisions of this act and if they have not done so, the  
33 commissioner may request the governing body of the county or  
counties to initiate an application for the designation and  
35 delineation of a transportation development district under  
section 4 of this act. The request shall set forth in detail the  
37 reasons which, in the judgement of the commissioner, justify the  
creation of a transportation development district in conformity  
39 with the purpose of this act, which reasons may be based upon a



1 comprehensive development plan for the corridor or area issued  
2 by the department after notice and public hearings in the area  
3 or corridor in question. The finding by the commissioner that  
4 certain areas of the State are growth corridors or growth areas  
5 shall not be construed as determining and designating all growth  
6 corridors or growth areas in the State and shall not preclude any  
7 governing body of a county from establishing a transportation  
8 development district within any portion of that county in  
9 accordance with the provisions of this act.

10 b. The governing body of the county shall, within 90 days of  
11 the receipt of the request submitted under subsection a. above,  
12 respond to the request by ordinance or resolution, as  
13 appropriate. The ordinance or resolution, as appropriate, shall  
14 state the intention of the governing body to proceed with an  
15 application for the designation and delineation of a  
16 transportation development district under section 4 of this act  
17 or shall state the intention of the governing body of the county  
18 not to proceed with an application, setting forth the reasons for  
19 not so proceeding. The ordinance or resolution, as appropriate,  
20 shall be transmitted to the governing body of each municipality  
21 which would, in the judgment of the governing body of the  
22 county, be directly affected by the designation and delineation  
23 of a transportation development district as proposed in the  
24 request.

25 c. The commissioner may, especially in the case of a corridor  
26 or area traversed by a State highway, request the governing  
27 bodies of two or more counties to establish adjoining  
28 transportation development districts in accordance with the  
29 procedures provided for in subsections a. and b. of this section.

30 d. If the governing body of the county or counties has  
31 received a request from the commissioner to initiate an  
32 application, or to establish adjoining transportation development  
33 districts, and has failed to respond to the commissioner's  
34 request within the time permitted or has stated that it does not  
35 intend to proceed with an application or otherwise fails to take  
36 action to establish the requested district or districts, the  
37 commissioner may, upon 90 days notice to the governing body of  
38 the county and the holding of a public hearing, where the  
39 creation of such a district or districts is critically important, by

1 order designate such a district or districts and delineate its  
2 boundaries. The functions, powers and duties of the governing  
3 body of the county in relation to transportation development  
4 districts authorized to be exercised by this act shall be  
5 exercised by the commissioner through regulations and orders in  
6 relation to a district created under this subsection, mutatis  
7 mutandis. In this district, development fees shall be assessed by  
8 order of the commissioner upon notice and public hearing.  
9 These fees may only be assessed, and disbursed from the  
10 transportation development district trust fund, for projects  
11 other than county transportation projects. Appeals from these  
12 assessments shall be referred to the Office of Administrative  
13 Law by the commissioner for a hearing. If the commissioner  
14 modifies or rejects the resultant report and decision, the action  
15 of the commissioner may be appealed to the Appellate Division  
16 of the Superior Court as provided in subsection i. of section 7 of  
17 this act. Notwithstanding that the governing body of the county  
18 may not have participated in the establishment of such a  
19 district, the governing body by ordinance or resolution may  
20 request the commissioner to permit it to participate fully in the  
21 operation of the district. Upon the granting of this request by  
22 the commissioner on whatever terms and conditions the  
23 commissioner deems appropriate, the governing body of the  
24 county shall assume full responsibility for the operation of the  
25 district and the assessment of fees, as if the district were  
26 established pursuant to an application by the governing body  
27 under subsection a. of section 4 of this act.<sup>1</sup><sup>2</sup>

28 <sup>2</sup>[<sup>1</sup>14. a. The governing body of a county within which a  
29 transportation development district has been designated under  
30 section 4 of this act may, by ordinance or resolution, as  
31 appropriate, apply to the commissioner for the dissolution of the  
32 district. The application shall include the reasons for the  
33 proposed dissolution and a plan for disbursing any funds  
34 remaining in the transportation development district trust fund,  
35 whether by refunds to owners of property on which the fees  
36 were assessed or otherwise, and for concluding the business of  
37 the district generally.

38 b. The commissioner shall, within 60 days of the receipt of a  
39 completed application, (1) by order dissolve the district and

1 approve the county's plan for concluding the business of the  
2 district or (2) disapprove the application and inform the  
3 governing body of the county in writing of the reasons for the  
4 disapproval and any conditions or changes in the plan for  
5 concluding the business of the district which the commissioner  
6 believes to be necessary in the public interest.<sup>1]2</sup>

7 <sup>2</sup>[<sup>1</sup>15. a. The governing body of any municipality may, by  
8 ordinance, petition the governing body of the county to initiate  
9 an application for the designation and delineation of a  
10 transportation development district under section 4 of this act.  
11 The ordinance shall set forth in detail the reasons which, in the  
12 judgment of the governing body of the municipality, justify the  
13 creation of a transportation development district in conformity  
14 with the purpose of this act.

15 b. The governing body of the county shall, within 90 days of  
16 the receipt of a petition submitted under subsection a. above,  
17 respond to the petition by ordinance or resolution, as  
18 appropriate. The ordinance or resolution, as appropriate, shall  
19 state the intention of the governing body to proceed with an  
20 application for the designation and delineation of a  
21 transportation development district under section 4 of this act  
22 or shall state the intention of the governing body of the county  
23 not to proceed with an application, setting forth the reasons for  
24 not so proceeding. The ordinance or resolution, as appropriate,  
25 shall be transmitted to the governing body of the municipality  
26 submitting the petition and to the governing body of each  
27 municipality which would, in the judgment of the governing body  
28 of the county, be directly affected by the designation and  
29 delineation of a transportation development district as proposed  
30 in the petition.<sup>1]2</sup>

31 <sup>2</sup>[<sup>1</sup>16. a. Except as provided by this act, no county or  
32 municipality may establish or operate a district within the  
33 boundaries delineated by the commissioner for a transportation  
34 development district under section 4 of this act if the district is  
35 for the purpose of consolidating the required contributions for  
36 transportation improvements of applicants for development  
37 within the district.

38 b. Approval of a development application by any State, county  
39 or municipal body shall not be withheld or delayed because the

1 proposed development is within a proposed or pending  
2 transportation development district, but shall be dealt with in  
3 accordance with the applicable law, rule, regulation, ordinance  
4 or resolution in effect at the time of application.

5 c. The provisions of this act shall not be construed as  
6 affecting municipal reviews and approvals of proposed  
7 developments under the provisions of the "Municipal Land Use  
8 law," P.L.1975, c.291, (C.40:55D-1 et seq.).<sup>1</sup><sup>2</sup>

9 <sup>2</sup>[17. a. Where a county or municipality or both have,  
10 before the effective date of this act, established a district or  
11 districts for the purpose of consolidating the required  
12 contributions of applicants for development and implementing a  
13 coordinated program of transportation improvements in an area  
14 based on these contributions, the governing body of the county  
15 may, by ordinance or resolution, as appropriate, apply to the  
16 commissioner for the designation and delineation of a  
17 transportation development district incorporating the district or  
18 districts so established. The application shall include, in  
19 addition to the information required under subsection a. of  
20 section 4 of this act, a full description and account of the  
21 operations of the district or districts so established and any  
22 recommendations for alterations to the regulations and  
23 procedures of the district or districts the governing body finds  
24 necessary or appropriate to conform with the purposes of this  
25 act.

26 b. The commissioner shall, within 90 days of receipt of a  
27 completed application and upon review of the application as to  
28 sufficiency and conformity with the purposes of this act, (1) by  
29 order designate a district and delineate its boundaries in  
30 conformance with the application, or (2) disapprove the  
31 application and inform the governing body of the county in  
32 writing of the reasons for the disapproval. The governing body  
33 may, in the case of a disapproval of its application, resubmit an  
34 application incorporating whatever revisions it deems  
35 appropriate, taking into consideration the commissioner's  
36 reasons for disapproval.

37 c. The commissioner may, in an order made under subsection  
38 b. of this section designating a district and delineating its  
39 boundaries, provide for the waiver or consolidation of any

1 requirements of sections 5 and 6 of this act where, in the  
2 commissioner's judgment, that waiver or consolidation is  
3 justified by the public interest and by the purposes of this act.  
4 The commissioner may also include in the order any other  
5 provisions which the commissioner believes to be necessary and  
6 desirable for effecting an orderly transition from the operation  
7 of a district or districts previously established to the operation  
8 of a transportation development district under this act.<sup>1</sup><sup>2</sup>

9 <sup>2</sup>[14.] 18.<sup>1</sup> a. The commissioner shall, subject to the  
10 availability of appropriations, allocate State aid under the terms  
11 and conditions of this act to counties which have established  
12 transportation development districts. State aid provided under  
13 this section shall be provided for the purpose of undertaking  
14 transportation projects in district transportation improvement  
15 plans approved under section 6 of this act and for the purpose of  
16 assisting in the development of district transportation  
17 improvement plans under section 5 of this act and shall be  
18 allocated on a pro rata basis among all counties which have  
19 established transportation development districts in proportion to  
20 the development fees assessed within a district or in proportion  
21 to funds appropriated by a county for the development of a  
22 district transportation improvement plan, as appropriate, except  
23 that the total amount of State aid so allocated shall not exceed  
24 the total amount of development fees assessed in all  
25 transportation development districts and plan development funds  
26 appropriated by all counties.

27 b. When the commissioner determines in any fiscal year that  
28 the funds appropriated for the purposes of this section exceed  
29 the total amount of development fees assessed and plan  
30 development funds appropriated by counties which have  
31 established transportation development districts, the  
32 commissioner may allocate these funds to counties and  
33 municipalities at his discretion for purposes consistent with this  
34 act.]<sup>2</sup>

35 <sup>2</sup>[15.] 19.<sup>1</sup> The commissioner <sup>1</sup>upon notice and the holding  
36 of a public hearing<sup>1</sup> shall adopt the rules and regulations, in  
37 accordance with the "Administrative Procedure Act," P.L.1968,  
38 c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes  
39 of this act <sup>1</sup>, except that any transportation development

1 district trust fund established under section 7 of this act shall be  
2 administered in accordance with all of the regulations adopted  
3 by the Local Finance Board or the Division of Local Government  
4 Services of the Department of Community Affairs which are  
5 applicable to county funds generally, and that the Local Finance  
6 Board shall have authority to adopt, after consultation with the  
7 commissioner, regulations specifically governing the  
8 administration of transportation development district trust  
9 funds<sup>1</sup>.<sup>2</sup>

10 <sup>2</sup>[<sup>1</sup>[16.] 20.<sup>1</sup> If any clause, sentence, paragraph, section or  
11 part of this act is adjudged by any court of competent  
12 jurisdiction to be invalid, the judgment shall not affect, impair  
13 or invalidate the remainder hereof, but shall be confined in its  
14 operation to the clause, sentence, paragraph, section or part  
15 hereof directly involved in the controversy in which the  
16 judgment is rendered.]<sup>2</sup>

17 <sup>2</sup>[<sup>1</sup>[17.] 21.<sup>1</sup> This act shall be interpreted liberally to effect  
18 the purposes set forth herein.]<sup>2</sup>

19 <sup>2</sup>[<sup>1</sup>22. There is appropriated from the General Fund to the  
20 Department of Transportation the sum of \$250,000 for the  
21 implementation of this act.]<sup>2</sup>

22 <sup>2</sup>[<sup>1</sup>[18.] 23.<sup>1</sup> This act shall take effect immediately.]<sup>2</sup>

23 <sup>2</sup>1. (New Section) This act shall be known and may be cited  
24 as the "New Jersey Transportation Development District Act of  
25 1989."<sup>2</sup>

26 <sup>2</sup>2. (New Section) The Legislature finds and declares that:

27 a. In recent years, New Jersey has experienced explosive  
28 growth in certain regions, often along State highway routes and  
29 in urban areas experiencing rapid redevelopment. These  
30 "growth corridors" and "growth districts" are vital to the  
31 State's future but also present special problems and needs since  
32 they do not necessarily reflect municipal and county boundaries.

33 b. Growth corridors and districts are heavily dependent on  
34 the State's transportation system for their current and future  
35 development. At the same time, they place enormous burdens  
36 on existing transportation infrastructure contiguous to new  
37 development and elsewhere, creating demands for expensive  
38 improvements, reducing the ability of State highways to provide  
39 for through movement of traffic and creating constraints on  
future development.

1     c. Existing financial resources and existing mechanisms for  
2     securing financial commitments for transportation  
3     improvements are inadequate to meet transportation  
4     improvement needs which are the result of rapid development in  
5     growth areas, and therefore it is appropriate for the State to  
6     make special provisions for the financing of needed  
7     transportation improvements in these areas, including, the  
8     creation of special financing districts and the assessment of  
9     special fees on those developments which are responsible for the  
10    added burdens on the transportation system. Creation of these  
11    special financing districts provides a mechanism in which the  
12    State, counties and municipalities will have the means to work  
13    together to respond to transportation needs on a regional basis  
14    as determined by growth conditions rather than upon the  
15    pre-existing municipal and county boundaries. The district  
16    becomes the framework for a public-private partnership in  
17    meeting the transportation needs of New Jersey. Counties are to  
18    be the lead agencies in creating these multi-jurisdictional  
19    districts, recognizing that in some instances, given growth  
20    patterns of a region, that areas from more than one county may  
21    be included within a district. Should a county fail to participate  
22    in the creation of a needed district, the state or municipality  
23    can initiate the creation of a district.

24     d. Any of these assessments of special fees should be assessed  
25     under a statutory plan which recognizes that: (1) the fees  
26     supplement, but do not replace, the public investment needed in  
27     the transportation system, (2) the costs of remedying existing  
28     problems cannot be charged to a new development, (3) the fee  
29     charged to any particular development must be reasonably  
30     related, within the context of a practicable scheme for assessing  
31     fees within a district, to the added burden attributable to that  
32     development, and (4) the maximum amount of fees charged to  
33     any development by the State or county or municipality for  
34     off-site transportation improvements pursuant to this act or any  
35     other law shall not exceed the property owner's fair share of  
36     such improvement costs. In determining the reasonableness of a  
37     fee assessed in accordance with the provisions of this act, it  
38     must be recognized that government must have the flexibility  
39     necessary to deal realistically with questions not susceptible

1 of exact measurement. It is furthermore necessary to recognize  
2 that precise mathematical exactitude in the establishment of  
3 fees is neither feasible nor constitutionally vital.

4 e. The development of special financial mechanisms to meet  
5 the needs of growth corridors and districts should be  
6 accompanied by the development of strategies to improve  
7 regional, comprehensive planning in these areas, to encourage  
8 transportation-efficient land uses, to reduce automobile  
9 dependency, and to encourage alternatives to peak-hour  
10 automobile trips.<sup>2</sup>

11 <sup>2</sup>3. (New Section) The following words or terms as used in  
12 this act shall have the following meaning unless a different  
13 meaning clearly appears from the context:

14 a. "Commissioner" means the Commissioner of  
15 Transportation.

16 b. "County" means a duly constituted county government or  
17 an appropriate governmental organization designated under  
18 paragraph (1) of subsection c. of section 4 of this act.

19 c. "Department" means the Department of Transportation.

20 d. "Development" means "development" in the meaning of  
21 section 3.1 of the "Municipal Land Use Law," P.L.1975, c.291  
22 (C.40:55D-4).

23 e. "Development assessment liability date" means, with  
24 respect to any transportation development district created  
25 under this act, the date upon which the commissioner adopts an  
26 order designating the district and delineating its boundaries,  
27 which order shall be published in the New Jersey Register.

28 f. "Development fee" means a fee assessed on a development  
29 pursuant to an ordinance or resolution, as appropriate, adopted  
30 under section 7 of this act.

31 g. "Public highways" means public roads, streets,  
32 expressways, freeways, parkways, motorways and boulevards,  
33 including bridges, tunnels, overpasses, underpasses,  
34 interchanges, rest areas, express bus roadways, bus pullouts and  
35 turnarounds, park-ride facilities, traffic circles, grade  
36 separations, traffic control devices, the elimination or  
37 improvement of crossings of railroads and highways, whether at  
38 grade or not at grade, and any facilities, equipment, property,  
39 rights-of-way, easements and interests therein needed for the



1 construction, improvement and maintenance of highways.

2 h. "Public transportation project" means, in connection with  
3 public transportation service or regional ridesharing programs,  
4 passenger stations, shelters and terminals, automobile parking  
5 facilities, ramps, track connections, signal systems, power  
6 systems, information and communication systems, roadbeds,  
7 transit lanes or rights of way, equipment storage and servicing  
8 facilities, bridges, grade crossings, rail cars, locomotives,  
9 motorbus and other motor vehicles, maintenance and garage  
10 facilities, revenue handling equipment and any other equipment,  
11 facility or property useful for or related to the provision of  
12 public transportation service or regional ridesharing programs.

13 i. "Transportation development district" or "district" means  
14 a district created under section 4 or section 13 of this act.

15 j. "Transportation project" means, in addition to public  
16 highways and public transportation projects, any equipment,  
17 facility or property useful or related to the provision of any  
18 ground, waterborne or air transportation for the movement of  
19 people and goods.<sup>2</sup>

20 <sup>2</sup>4. (New Section) a. The governing body of any county may,  
21 by ordinance or resolution, as appropriate, apply to the  
22 commissioner for the designation and delineation of a  
23 transportation development district within the boundaries of the  
24 county. The application shall include: (1) proposed boundaries  
25 for the district, (2) evidence of growth conditions prevailing in  
26 the proposed district which justify creation of a transportation  
27 development district in conformity with the purposes of this act  
28 <sup>3</sup>[, especially as expressed in subsection c. of section 2 of this  
29 act,] and the standards established by the commissioner<sup>3</sup> (3) a  
30 description of transportation needs arising from rapid  
31 development within the district, (4) certification that there is in  
32 effect for the county a current county master plan adopted  
33 under R.S.40:27-2 and that creation of the district would be in  
34 conformity both with the county master plan and with the State  
35 Development and Redevelopment Plan adopted under the "State  
36 Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), (5)  
37 certification that municipalities included, wholly or partly in the  
38 district, or which would be directly affected by the delineation  
39 or designation thereof, have been given at least 30 days advance

1 notice of the application and an opportunity to comment  
2 thereon, (6) comments offered by any of these municipalities,  
3 and the response thereto by the county, and (7) any additional  
4 information that the commissioner may require.

5 b. The commissioner shall, within 60 days of receipt of a  
6 completed application and upon review of the application as to  
7 sufficiency and conformity with the purposes of this act, (1) by  
8 order designate a district and delineate its boundaries in  
9 conformance with the application, or (2) disapprove the  
10 application and inform the governing body of the county in  
11 writing of the reasons for the disapproval, or (3) where the  
12 commissioner finds that the creation of a district is critically  
13 important and that the application of the county is sufficient in  
14 every respect except the appropriateness of the proposed  
15 boundaries for the district, by order designate a district and  
16 delineate its boundaries and inform the governing body of the  
17 county in writing of the reasons for the alteration of the  
18 proposed boundaries. Failure of the commissioner to act under  
19 this subsection within 60 days, unless the applicant agrees to an  
20 extension of time shall mean that the application is approved  
21 and the commissioner shall then on the next business day issue  
22 an order as required under this subsection. The governing body  
23 may, in the case of a disapproval of its application, resubmit an  
24 application incorporating whatever revisions it deems  
25 appropriate, taking into consideration the commissioner's  
26 reasons for disapproval.

27 c. (1) If the governing body of the county in response to a  
28 petition by a municipality under section 15 of this act adopts an  
29 ordinance or resolution, as appropriate, stating its intention not  
30 to proceed with an application or adopts an ordinance or  
31 resolution, as appropriate, stating its intention to proceed with  
32 an application but fails to submit such an application within 120  
33 days of adopting that ordinance or resolution, as appropriate,  
34 the governing body of the municipality which submitted the  
35 original petition or the governing body of any municipality  
36 within the county which would be directly affected by the  
37 designation and delineation of a district may petition the  
38 commissioner for the designation and delineation of a district.  
39 The commissioner shall, within 60 days of receipt of a petition

1 and upon review of the petition as to sufficiency and conformity  
2 with the purposes of this act, act as in subsection b. of this  
3 section, but in the instance where the commissioner acts under  
4 paragraph (1) or paragraph (3) of subsection b., the commissioner  
5 shall also designate an appropriate governmental organization  
6 which has sufficient power to administer the district, and which  
7 shall permit representation from all participating  
8 municipalities. In addition, where negotiations are underway  
9 pursuant to this subsection or subsection b. of this section  
10 between the department and the petitioning body the 60 day  
11 time frame may be suspended by mutual agreement. The  
12 petitioning body may, in the case of a disapproval of its  
13 application, resubmit a petition directly to the commissioner  
14 incorporating whatever revisions it deems appropriate, taking  
15 into consideration the commissioner's reasons for disapproval.

16 (2) Failure by a county to adopt a resolution stating its intent  
17 to submit an application substantially consistent with the  
18 municipal petition within 90 days after receipt thereof shall  
19 entitle the petitioning municipality or any directly affected  
20 municipality to petition the commissioner for the designation  
21 and delineation of a district as set forth in paragraph (1) of this  
22 subsection.

23 d. The commissioner shall adopt as <sup>3</sup>[a regulation]  
24 regulations<sup>3</sup> under the "Administrative Procedure Act,"  
25 P.L.1968, c.410 (C.52:14B-1 et seq.) standards to assist in the  
26 determination of whether there is sufficient evidence of growth  
27 conditions prevailing in an area to justify creation of a  
28 transportation development district under this act. The criteria  
29 for assisting in the determination shall include: (1) an  
30 accelerating growth rate for estimated population or  
31 employment in excess of 10% in three of the past five years in  
32 at least three contiguous municipalities; or, (2) projected local  
33 traffic growth in excess of 50% in a five-year period generated  
34 from new development; or, (3) commercial/retail development  
35 projected at a rate of 1 million square feet per square mile in a  
36 five-year period; or, (4) projected growth in population or in  
37 employment in excess of 20% over a 10-year period. The  
38 regulations shall specify the application of the time periods  
39 under these four criteria. The commissioner may also include in

1 the <sup>3</sup>[regulation] regulations<sup>3</sup> additional criteria which  
2 recognize existing traffic congestion, or any other such criteria  
3 which, in the commissioner's judgment, may serve to effectuate  
4 the purposes of this act.

5 The Senate Transportation and Communications Committee,  
6 or its successor, and the Assembly Transportation and  
7 Communications Committee, or its successor, shall be notified by  
8 the commissioner of these standards at the time they are  
9 <sup>3</sup>[proposed for introduction for adoption] included in a notice of  
10 proposed rule-making<sup>3</sup> under the provisions of the  
11 "Administrative Procedure Act." In addition, following the  
12 adoption of these standards by regulation, the commissioner  
13 shall notify the Senate Transportation and Communications  
14 Committee, or its successor, and the Assembly Transportation  
15 and Communications Committee, or its successor, of any  
16 proposed revisions to these standards at the time these revisions  
17 are proposed for adoption under the provisions of the  
18 "Administrative Procedure Act."<sup>2</sup>

19 <sup>2</sup>5. (New Section) a. Following the commissioner's  
20 designation and delineation of a district under section 4 of this  
21 act, the governing body of the county shall initiate a joint  
22 planning process for the district, with opportunity for  
23 participation by the State, all affected counties and  
24 municipalities and private representatives. Each affected  
25 governmental unit shall be notified by the county at the  
26 commencement of the joint planning process. The joint planning  
27 process shall produce a draft district transportation  
28 improvement plan and a draft financial <sup>3</sup>[program] plan<sup>3</sup>.

29 b. The draft district transportation improvement plan shall  
30 establish goals and priorities for all modes of transportation  
31 within the district, shall incorporate the relevant plans of all  
32 transportation agencies within the district and shall contain a  
33 program of transportation projects which addresses  
34 transportation needs arising from rapid growth conditions  
35 prevailing in the district and which therefore warrants financing  
36 in whole or in part from a trust fund to be established under  
37 section 7 of this act, and shall provide for the assessment of  
38 development fees based upon the applicable formula as  
39 established by the commissioner by regulation. The draft

1 district transportation improvement plan shall be in accordance  
2 with the State transportation master plan adopted under section  
3 5 of P.L.1966, c.301 (C.27:1A-5), the county master plan  
4 adopted under R.S.40:27-2, and shall be <sup>3</sup>[coordinated] in  
5 conformity<sup>3</sup> with the State Development and Redevelopment  
6 Plan adopted under the "State Planning Act," P.L.1985, c.398  
7 (C.52:18A-196 et al.) and, to the extent appropriate, given the  
8 district-wide objectives of the plan, <sup>3</sup>coordinated with<sup>3</sup> local  
9 zoning ordinances and master plans adopted pursuant to the  
10 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

11 c. The draft financial <sup>3</sup>[program] plan<sup>3</sup> shall include an  
12 identification of projected available financial resources for  
13 financing district transportation projects outlined in the draft  
14 district transportation improvement plan, including  
15 recommendations for types and rates of development fees to be  
16 assessed under section 7 of this act, and projected annual  
17 revenue to be derived therefrom.

18 d. The governing body of the county shall make copies of the  
19 draft district transportation improvement plan and the draft  
20 financial <sup>3</sup>[program] plan<sup>3</sup> available to the public for inspection  
21 and shall hold a public hearing on them.<sup>2</sup>

22 <sup>2</sup>6. (New Section) a. The governing body of any county  
23 which has completed all the requirements of section 5 of this  
24 act may, by ordinance or resolution, as appropriate, adopt a  
25 district transportation improvement plan. The district  
26 transportation improvement plan shall be derived from the draft  
27 district transportation improvement plan developed under  
28 section 5 of this act and shall contain a <sup>3</sup>[program of] financial  
29 plan for<sup>3</sup> transportation projects intended to be <sup>3</sup>[financed]  
30 developed<sup>3</sup> over time in whole or in part from a trust fund to be  
31 established under section 7 of this act. The district  
32 transportation improvement plan shall be consistent with any  
33 existing <sup>3</sup>capital improvements program,<sup>3</sup> and incorporated into  
34 any future capital improvements program required to be adopted  
35 under P.L. , c. (C. ) (now pending before the  
36 Legislature as Assembly Bill No. 2306 <sup>3</sup>[and] or<sup>3</sup> Senate Bill No.  
37 664 of 1988) and shall be consistent with any transportation  
38 improvement program which the county may be required to  
39 submit to the department.

1        b. No ordinance or resolution, or amendment or supplement  
2        thereto, adopted under this section shall <sup>3</sup>[be effective] take  
3        effect<sup>3</sup> until approved by the commissioner. In evaluating the  
4        district transportation improvement plan, the commissioner  
5        shall take into consideration: (1) the appropriateness of the  
6        district boundaries in light of the findings of the plan, (2) the  
7        appropriateness of the content and timing of the program of  
8        projects intended to be financed in whole or in part from the  
9        district trust fund in relation to the transportation needs  
10       stemming from rapid growth in the district, (3) the hearing  
11       record of the public hearing held prior to adoption of the  
12       ordinance or resolution, (4) any written comments submitted by  
13       municipalities or other parties and (5) consistency with the  
14       planning requirements set forth in subsection b. of section 5 of  
15       this act. The commissioner shall complete the review of the  
16       ordinance or resolution and shall inform the governing body in  
17       writing of the approval or disapproval thereof within 90 days of  
18       receipt. Failure by the commissioner to act in 90 days <sup>3,3</sup>  
19       unless <sup>3</sup>an extension is<sup>3</sup> mutually <sup>3</sup>[extended] approved,<sup>3</sup> shall  
20       mean that the submission is deemed approved. The written  
21       notice shall be accompanied, in the case of approval, by the  
22       commissioner's estimate of the resources which may be  
23       <sup>3</sup>[made]<sup>3</sup> available <sup>3</sup>[under this act and from other sources]<sup>3</sup> to  
24       support implementation of the plan and, in the case of  
25       disapproval, by the reasons for that disapproval. The governing  
26       body may, in the case of a disapproval, resubmit an ordinance or  
27       resolution, as appropriate, or amendment or supplement thereto,  
28       incorporating whatever revisions it deems appropriate, taking  
29       into consideration the commissioner's reasons for disapproval.<sup>2</sup>

30       <sup>27.</sup> (New Section) a. After the effective date of an  
31       ordinance or resolution, as appropriate, adopted under section 6  
32       of this act, the governing body of the county may provide, by  
33       ordinance or resolution, as appropriate, for the assessment and  
34       collection of development fees on developments within the  
35       district.

36       b. The ordinance or resolution, as appropriate, shall specify  
37       that the fee shall be assessed on a development at the time that  
38       the development receives preliminary approval from the  
39       municipal approval authority or, where the municipality has not

1 enacted an ordinance requiring approval of the development, at  
2 the time that a construction permit is issued. If the  
3 development is to be constructed in phases or there is a  
4 substantial modification of preliminary approval as defined in  
5 the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et  
6 seq.), the fee shall be assessed at the time of the preliminary  
7 approval of the respective phase or at the time of modification,  
8 as the case may be. For a development which has received  
9 preliminary plan approval prior to the adoption of the ordinance  
10 and where final approval is not obtained for that phase of  
11 development within three years of preliminary approval, the fee  
12 shall be assessed at the time of final approval.

13 c. The ordinance or resolution, as appropriate, shall specify  
14 whether the fee is to be paid at the time a construction permit  
15 is issued or in a series of payments, as set forth in a schedule of  
16 payments contained in the ordinance or resolution, as  
17 appropriate. The ordinance or resolution, as appropriate, may  
18 provide for payment of the fee in a series of periodic payments  
19 over a period of no longer than 20 years. The payments due to  
20 the county, whether as a lump sum or as balances due, where a  
21 series of payments is to be made, shall be enforceable by the  
22 county as a lien on the land and any improvements thereon  
23 which lien shall be recorded by the <sup>3</sup>appropriate<sup>3</sup> county  
24 <sup>3</sup>[fiscal]<sup>3</sup> officer in the record book of the appropriate county  
25 office. Any ordinance or resolution, as appropriate, shall set  
26 forth the procedures for enforcement of the lien in the event of  
27 delinquencies. When the fee is paid in full on the development  
28 or portion thereof, the lien on the development or portion  
29 thereof, as appropriate, shall be removed. Any ordinance or  
30 resolution, as appropriate, shall provide for the procedure by  
31 which any portion of the land and any improvements thereon  
32 shall be released from the lien <sup>3</sup>[created] required<sup>3</sup> by this  
33 section <sup>3</sup>[. Such ordinance or resolution, as appropriate] and<sup>3</sup>,  
34 shall require that any lien filed in accordance with this section  
35 shall contain a provision <sup>3</sup>[memorializing] citing<sup>3</sup> the  
36 <sup>3</sup>[appropriate]<sup>3</sup> release procedures. Where a series of payments  
37 is to be made, failure to make any one payment within 30 days  
38 after receipt of a notice of late payment shall constitute a  
39 default and shall obligate the person owing the unpaid balance to

1 pay that balance in its entirety.

3 d. Any development or phase thereof which has received  
5 preliminary approval prior to the development assessment  
7 liability date shall not be subject to the assessment and  
9 collection of a development fee under this act but shall be liable  
11 for the payment of off-site transportation improvements to the  
13 extent agreed upon under the applicable law, rule, regulation,  
15 ordinance or resolution in effect at the time of the agreement.  
17 Any development or phase thereof which receives preliminary  
19 approval after the development liability assessment date shall  
21 be subject to the assessment and collection of a development  
23 fee under this act, but shall receive a credit against the fee for  
25 the amount paid or obligated to be paid to State, county or  
27 municipal agencies for the cost of off-site transportation  
29 improvements under agreements entered into under the  
31 applicable law, rule, regulation, ordinance or resolution in effect  
33 at the time of the agreement.

35 e. The ordinance or resolution, as appropriate, also shall  
37 provide for the establishment of a transportation development  
39 district trust fund under the control of the county treasurer or  
41 such other officer as appropriate. All monies collected  
43 <sup>3</sup>[pursuant to the ordinance or resolution, as appropriate,] from  
45 development fees and any other monies as may be available for  
47 the purposes of this act<sup>3</sup> shall be deposited into the trust fund  
49 which is to be invested in an interest bearing account.

51 f. An ordinance or resolution, as appropriate, adopted under  
53 this section also may contain provisions for: (1) delineating a  
55 core area within the district within which the conditions  
57 justifying creation of the district are most acute and providing  
59 for a reduced development fee rate to apply <sup>3</sup>to developments<sup>3</sup>  
61 inside that core area; (2) credits against assessed development  
63 fees for payments made or expenses incurred which have been  
65 determined by the governing body of the county to be in  
67 furtherance of the district transportation improvement plan,  
69 including but not limited to, contributions to transportation  
71 improvements, other than those required for safe and efficient  
73 highway access to a development, and costs attributable to the  
75 promotion of public transit or ridesharing; (3) exemptions from  
77 or reduced rates for development fees for specified land uses



1 which have been determined by the governing body of the county  
2 to have a beneficial, neutral or comparatively minor adverse  
3 impact on the transportation needs of the district; (4) a reduced  
4 rate of development fees for developments for which  
5 construction permits were issued after the development  
6 assessment liability date but before the effective date of the  
7 ordinance or resolution, as appropriate, where those dates are  
8 different; <sup>3</sup>and<sup>3</sup> (5) a reduced rate of development fees for  
9 developers submitting a peak-hour automobile trip reduction  
10 plan approved by the commissioner under standards adopted by  
11 the commissioner by regulation. Standards for the approval of  
12 peak-hour automobile trip reduction plans may include, but need  
13 not be limited to, physical design for improved transit,  
14 ridesharing, and pedestrian access; incorporation of residential  
15 uses into predominantly nonresidential development; and  
16 proximity to potential labor pools <sup>3</sup>[; and (6) exemptions] . The  
17 ordinance or resolution, as appropriate, shall provide for the  
18 exemption<sup>3</sup> from assessment <sup>3</sup>of development fees<sup>3</sup> for <sup>3</sup>any  
19 development of<sup>3</sup> low and moderate income housing units which  
20 are constructed pursuant to the "Fair Housing Act," P.L.1985,  
21 c.222 (C.52:27D-301 et seq.) or under court settlement.

22 g. An ordinance or resolution, as appropriate, shall specify  
23 that any fees collected, plus earned interest, not committed to a  
24 transportation project under a project agreement entered into  
25 under section 9 of this act within 10 years of the date of  
26 collection shall be refunded to the feepayer under a procedure  
27 prescribed by the commissioner by regulation for this purpose,  
28 except that if the payer of the fee transfers the development or  
29 any portion thereof, he shall enter into an agreement with the  
30 grantee in such form as shall be provided by regulation of the  
31 commissioner which shall indicate who shall be entitled to  
32 receive any refund, and such agreement shall be filed with the  
33 designated county officer.

34 h. An ordinance or resolution, as appropriate, shall be  
35 sufficiently certain and definitive to enable every person who  
36 may be required to pay a fee to know or calculate the limit and  
37 extent of the fee which will be assessed against a specific  
38 development proposal. Development fees shall be reasonably  
39 related to the added traffic growth attributable to the

1 development which is subject to the assessment and the  
2 maximum amount of fees for transportation improvements that  
3 may be charged to any development by the State, county or  
4 municipality pursuant to this act or any other law shall not  
5 exceed the property owner's "fair share" of such improvement  
6 costs. "Fair share" means the added traffic growth attributable  
7 to the proposed development or phase thereof. Approval of a  
8 development application by any State, county or municipal body  
9 or agency shall not be withheld or delayed because of the  
10 necessity to construct an off-site transportation improvement if  
11 the developer has <sup>3</sup>[satisfied] contributed<sup>3</sup> his "fair share"  
12 obligation under the provisions of this act.

13 i. Any person who has been assessed a development fee under  
14 the provisions of an ordinance or resolution adopted pursuant to  
15 this section may appeal the assessment by filing an appeal with  
16 the commissioner within 90 days of the receipt of notification of  
17 the amount of the assessment, on the grounds that the governing  
18 body or its officers or employees in issuing the assessment did  
19 not abide by the provisions of this act or the provisions of the  
20 ordinance or resolution issued hereunder or of the rules and  
21 regulations adopted by the commissioner pursuant to this act.  
22 The decision of the commissioner constitutes an administrative  
23 action subject to review by the Appellate Division of the  
24 Superior Court. Nothing contained herein shall be construed as  
25 limiting the ability of any person so assessed from filing an  
26 appeal based upon an agreement to pay or actual payment of the  
27 fee.<sup>2</sup>

28. (New Section) An ordinance or resolution, as appropriate,  
29 adopted under section 7 of this act shall provide for the  
30 assessment of development fees based upon the formula for that  
31 category of district authorized by the commissioner, by  
32 regulation, and uniformly applied, with such exceptions as are  
33 authorized <sup>3</sup>or required<sup>3</sup> by this act and by regulation. The  
34 commissioner may authorize a formula or formulas relating the  
35 amount of the fee to impact on the transportation system,  
36 including, but not limited to, the following factors: vehicle trips  
37 generated by the development, the occupied square footage of a  
38 developed structure, the number of employees regularly  
39 employed at the development, and the number of parking spaces

1 located at the development. In developing the authorized  
2 formula or formulas the commissioner shall consult with  
3 knowledgeable persons in appropriate fields, which may include,  
4 but need not be limited to, land use law, planning, traffic  
5 engineering, real estate development, transportation, and local  
6 government. No separate or additional assessments for off-site  
7 transportation improvements within the district shall be made  
8 by the State, or a county or municipality except as provided in  
9 this act.<sup>2</sup>

10 <sup>2</sup>9. (New Section) Every transportation project funded in  
11 whole or in part by funds from a transportation development  
12 district trust fund shall be subject to a project agreement to  
13 which the commissioner is a party. Every transportation project  
14 for which a project agreement has been executed shall be  
15 included in a district transportation improvement plan adopted  
16 by an ordinance or resolution, as appropriate, under section 6 of  
17 this act. A project agreement may include other parties,  
18 including but not limited to, municipalities and <sup>3</sup>the<sup>3</sup> developers  
19 <sup>3</sup>of a project<sup>3</sup> . A project agreement shall provide for the  
20 assignment of financial obligations among the parties, and those  
21 provisions for discharging respective financial obligations as the  
22 parties shall agree upon. A project agreement also shall make  
23 provision for those arrangements among the parties as are  
24 necessary and convenient for undertaking and completing a  
25 transportation project. A project agreement may provide that a  
26 county may pledge funds in a transportation development  
27 district trust fund or revenues to be received from development  
28 fees for the repayment of debt incurred under any debt  
29 instrument which the county may be authorized by law to issue.  
30 Each project agreement shall be authorized by <sup>3</sup>[an] and<sup>3</sup>  
31 entered into pursuant to an ordinance or resolution, as  
32 appropriate, of the governing body <sup>3</sup>[having charge of the  
33 finances]<sup>3</sup> of each county and municipality which is a party to  
34 the project agreement. Any project agreement may be made  
35 with or without consideration and for a specified or an unlimited  
36 time and on any terms and conditions which may be approved by  
37 or on behalf of the county or municipality and shall be valid  
38 whether or not an appropriation with respect thereto is made by  
39 the county or municipality prior to the authorization or

1 execution thereof. <sup>3</sup>[Every] Any<sup>3</sup> county <sup>3</sup>[and] or<sup>3</sup> municipality  
2 <sup>3</sup>which<sup>3</sup> is authorized <sup>3</sup>[and directed to do and perform any and  
3 all acts or things necessary, convenient or desirable to carry out  
4 and perform every] to undertake all or part of a project which  
5 may involve property within the jurisdiction of another political  
6 subdivision, may exercise all powers necessary for the project as  
7 may be permitted by law and agreed to in the<sup>3</sup> project  
8 agreement.<sup>2</sup>

9 <sup>2</sup>10. (New Section) No expenditure of funds shall be made  
10 from a transportation development district trust fund except by  
11 appropriation by the governing body of the county or other  
12 appropriate governmental organization as designated by the  
13 commissioner under this act, and upon certification of the  
14 county treasurer or the appropriate financial officer of the  
15 designated governmental organization, as appropriate <sup>3,3</sup> that  
16 the expenditure is in accordance with a project agreement  
17 entered into under section 9 of this act. <sup>3</sup>[Notwithstanding the  
18 provisions of P.L.1976, c.68 (C.40A:4-45.1 et seq.) to the  
19 contrary, there shall be exempted from the final appropriations  
20 of a county, subject to the spending limitations imposed  
21 thereunder, any appropriations made by the county in  
22 accordance with this section or any payments made by the  
23 county pursuant to a project agreement authorized in  
24 accordance with section 9 of this act.<sup>2</sup>]<sup>3</sup>

25 <sup>2</sup>11. (New Section) The commissioner may, subject to the  
26 availability of appropriations for this purpose and pursuant to a  
27 project agreement entered into under section 9 of this act, make  
28 loans to a party to a project agreement for the purpose of  
29 undertaking and completing a <sup>3</sup>State-owned<sup>3</sup> transportation  
30 project. In this event, the project agreement shall include the  
31 obligation of the governing body of the county to make  
32 payments to the commissioner for repayment of the loan  
33 according to an agreed upon schedule of payments. The  
34 commissioner may receive monies from a county for repayment  
35 of a loan and pay these monies, or assign his right to receive  
36 them, to the New Jersey Transportation Trust Fund Authority,  
37 created pursuant to section 4 of P.L.1984, c.73 (C.27:1B-4), in  
38 reimbursement of funds paid to him by that authority for the  
39 purpose of making loans pursuant to this section.<sup>2</sup>

1       <sup>2</sup>12. (New Section) The governing bodies of two or more  
2 counties which have established, or propose to establish,  
3 adjoining transportation development districts, and which have  
4 determined that joint or coordinated planning or implementation  
5 of transportation projects would be beneficial, may enter into  
6 joint arrangements under this act, including: (1) filing joint  
7 applications under section 4 of this act, (2) initiating a  
8 coordinated joint planning process under section 5 of this act, (3)  
9 adopting coordinated district transportation improvement plans  
10 under section 6 of this act and (4) entering into joint project  
11 agreements under section 9 of this act.<sup>2</sup>

12       <sup>2</sup>13. (New Section) a. After due examination the  
13 commissioner may find, in accordance with regulations adopted  
14 pursuant to subsection d. of section 4 of this act, that certain  
15 designated areas of the State are growth corridors or growth  
16 areas<sup>3</sup>[as discussed in section 2 of this act]<sup>3</sup> and that existing  
17 financial resources and existing mechanisms for securing  
18 financial commitments for transportation improvements are  
19 inadequate to meet transportation improvement needs which are  
20 the result of rapid development in these corridors or areas.  
21 Upon this finding and after sufficient time has elapsed for the  
22 governing body of the county or counties located within this  
23 corridor or area to take action to establish a district or districts  
24 therein pursuant to the provisions of this act and if they have  
25 not done so, the commissioner may request the governing body  
26 of the county or counties to initiate an application for the  
27 designation and delineation of a transportation development  
28 district under section 4 of this act. The request shall set forth  
29 in detail the reasons which, in the judgment of the  
30 commissioner, justify the creation of a transportation  
31 development district in conformity with the purpose of this act,  
32 which reasons may be based upon a comprehensive development  
33 plan for the corridor or area issued by the department after  
34 notice and public hearings in the area or corridor in question.  
35 The finding by the commissioner that certain areas of the State  
36 are growth corridors or growth areas shall not be construed as  
37 determining and designating all growth corridors or growth areas  
in the State and shall not preclude any governing body of a

1 county from establishing a transportation development district  
2 within any portion of that county in accordance with the  
3 provisions of this act.

4 b. The governing body of the county shall, within 90 days of  
5 the receipt of the request submitted under subsection a. above,  
6 respond to the request by <sup>3</sup>adoption of an<sup>3</sup> ordinance or  
7 resolution, as appropriate <sup>3</sup>[. The ordinance or resolution, as  
8 appropriate] which<sup>3</sup>, shall state the intention of the governing  
9 body to proceed <sup>3</sup>or not to proceed<sup>3</sup> with an application for the  
10 designation and delineation of a transportation development  
11 district under section 4 of this act <sup>3</sup>[or shall state the intention  
12 of the governing body of the county not to proceed with an  
13 application, setting]. If appropriate the ordinance or resolution  
14 shall set<sup>3</sup> forth the reasons for not so proceeding. The  
15 ordinance or resolution, as appropriate, shall be transmitted to  
16 the governing body of each municipality which would, in the  
17 judgment of the governing body of the county, be directly  
18 affected by the designation and delineation of a transportation  
19 development district as proposed in the request.

20 c. The commissioner may, especially in the case of a corridor  
21 or area traversed by a State highway, request the governing  
22 bodies of two or more counties to establish adjoining  
23 transportation development districts in accordance with the  
24 procedures provided for in subsections a. and b. of this section.

25 d. If the governing body of the county or counties has  
26 received a request from the commissioner to initiate an  
27 application, or to establish adjoining transportation development  
28 districts, and has failed to respond to the commissioner's  
29 request within the time permitted or has stated that it does not  
30 intend to proceed with an application or otherwise fails to take  
31 action to establish the requested district or districts, the  
32 commissioner may, upon 90 days notice to the governing bodies  
33 of the county and each municipality directly affected by the  
34 designation and delineation of the proposed district, and the  
35 holding of a public hearing, where the creation of such a district  
36 or districts is critically important, by order designate such a  
37 district or districts and delineate its boundaries. The functions,  
38 powers and duties of the governing body of the county <sup>3</sup>[in  
39 relation to] concerning<sup>3</sup> transportation development districts

1 as<sup>3</sup> authorized<sup>3</sup> [to be exercised]<sup>3</sup> by this act shall be exercised  
2 by the commissioner through regulations and orders<sup>3</sup> [in relation  
3 to] concerning<sup>3</sup> a district created under this subsection<sup>3</sup> [,  
4 mutatis mutandis] in substantially the same manner as would be  
5 exercised by the governing body of the county pursuant to this  
6 act<sup>3</sup>. In<sup>3</sup> [this] a<sup>3</sup> district<sup>3</sup> so created<sup>3</sup> , development fees shall  
7 be assessed by order of the commissioner upon notice and public  
8 hearing. These fees<sup>3</sup> [may] shall<sup>3</sup> only be assessed, and  
9 disbursed from the transportation development district trust  
10 fund, for projects other than county transportation projects.  
11 Appeals from these assessments shall be referred to the Office  
12 of Administrative Law by the commissioner for a hearing. If the  
13 commissioner modifies or rejects the resultant report and  
14 decision, the action of the commissioner may be appealed to the  
15 Appellate Division of the Superior Court as provided in  
16 subsection i. of section 7 of this act. Notwithstanding that  
17 [the] a<sup>3</sup> governing body of the county may not have  
18 participated in the establishment of<sup>3</sup> [such]<sup>3</sup> a district, the  
19 governing body by ordinance or resolution may request the  
20 commissioner to permit it to participate fully in the operation  
21 of the district. Upon the granting of this request by the  
22 commissioner on whatever terms and conditions the  
23 commissioner deems appropriate, the governing body of the  
24 county shall assume full responsibility for the operation of the  
25 district and the assessment of fees, as if the district were  
26 established pursuant to an application by the governing body  
27 under subsection a. of section 4 of this act.

28 e. In designating and delineating a district, and in establishing  
29 district<sup>3</sup> transportation improvement and financial plans  
30 [therein] therefor<sup>3</sup> , the commissioner shall act in accordance  
31 with regulations adopted as provided in section<sup>3</sup> [19] 18<sup>3</sup> of this  
32 act.<sup>2</sup>

33 <sup>2</sup>14. (New Section) a. The governing body of a county within  
34 which a transportation development district has been designated  
35 under section 4 of this act may, by ordinance or resolution, as  
36 appropriate, apply to the commissioner for the dissolution of the  
37 district. The application shall include the reasons for the  
38 proposed dissolution and a plan for disbursing any funds  
39 remaining in the transportation development district trust fund,

1 whether by refunds to owners of property on which the fees  
2 were assessed or otherwise, and for concluding the business of  
3 the district generally.

4 b. The commissioner shall, within 60 days of the receipt of a  
5 completed application, (1) by order dissolve the district and  
6 approve the county's plan for concluding the business of the  
7 district or (2) disapprove the application and inform the  
8 governing body of the county in writing of the reasons for the  
9 disapproval and any conditions or changes in the plan for  
10 concluding the business of the district which the commissioner  
11 believes to be necessary in the public interest.<sup>2</sup>

12 <sup>2</sup>15. (New Section) a. The governing body of any  
13 municipality <sup>3</sup>or municipalities<sup>3</sup> may, by resolution, petition the  
14 governing body of the county to initiate an application for the  
15 designation and delineation of a transportation development  
16 district under section 4 of this act. The resolution shall set  
17 forth in detail the reasons which, in the judgment of the  
18 governing body <sup>3</sup>[of the municipality] or bodies<sup>3</sup> , justify the  
19 creation of a transportation development district in conformity  
20 with the purpose of this act.

21 b. The governing body of the county shall, within 90 days of  
22 the receipt of a petition submitted under subsection a. above,  
23 respond to the petition by <sup>3</sup>adoption of an<sup>3</sup> ordinance or  
24 resolution, as appropriate <sup>3</sup>[. The ordinance or resolution, as  
25 appropriate] which<sup>3</sup> , shall state the intention of the governing  
26 body to proceed <sup>3</sup>or not to proceed<sup>3</sup> with an application for the  
27 designation and delineation of a transportation development  
28 district under section 4 of this act <sup>3</sup>[or shall state the intention  
29 of the governing body of the county not to proceed with an  
30 application, setting] . If appropriate, the ordinance or resolution  
31 shall set<sup>3</sup> forth the reasons for not so proceeding. The  
32 ordinance or resolution, as appropriate, shall be transmitted to  
33 the governing body <sup>3</sup>[of the municipality] or bodies<sup>3</sup> submitting  
34 the petition and to the governing body of each municipality  
35 which would, in the judgment of the governing body of the  
36 county, be directly affected by the designation and delineation  
37 of a transportation development district as proposed in the  
38 petition.

39 <sup>3</sup>[c. The petition described in subsection a. of this section



1 may be initiated by one or more municipalities.<sup>2]</sup><sup>3</sup>

2 <sup>2</sup>16. (New Section) a. Except as provided by this act, no  
3 county or municipality may establish or operate a district within  
4 the boundaries delineated by the commissioner for a  
5 transportation development district under section 4 of this act if  
6 the district is for the purpose of consolidating the required  
7 contributions for transportation improvements of applicants for  
8 development within the district.

9 b. Approval of a development application by any State, county  
10 or municipal body shall not be withheld or delayed because the  
11 proposed development is within a proposed or pending  
12 transportation development district<sup>3</sup>[, but] . The development  
13 application<sup>3</sup> shall be<sup>3</sup>[dealt with] considered<sup>3</sup> in accordance  
14 with the applicable law, rule, regulation, ordinance or resolution  
15 in effect at the time of application.

16 c. The provisions of this act shall not be construed as  
17 affecting municipal reviews and approvals of proposed  
18 developments under the provisions of the "Municipal Land Use  
19 Law," P.L.1975, c.291 (C.40:55D-1 et seq.).<sup>2</sup>

20 <sup>2</sup>17. (New Section) a. <sup>3</sup>[Where] If<sup>3</sup> a county <sup>3</sup>[or  
21 municipality or both have] has<sup>3</sup> , before the effective date of  
22 this act, established a district or districts for the purpose of  
23 consolidating the required contributions of applicants for  
24 development and implementing a coordinated program of  
25 transportation improvements in an area based on these  
26 contributions, the governing body of the county may, by  
27 ordinance or resolution, as appropriate, apply to the  
28 commissioner for the designation and delineation of a  
29 transportation development district incorporating the district or  
30 districts so established. The application shall include, in  
31 addition to the information required under subsection a. of  
32 section 4 of this act, a full description and account of the  
33 operations of the district or districts so established and any  
34 recommendations for alterations to the regulations and  
35 procedures of the district or districts the governing body finds  
36 necessary or appropriate to conform with the purposes of this  
37 act.

38 b. <sup>3</sup>If a municipality has established a district or districts  
39 prior to the effective date of this act, the governing body of the

1 municipality may request the governing body of the county to  
2 apply to the commissioner for designation and delineation of a  
3 transportation development district to incorporate that district  
4 or districts.<sup>3</sup> If the county rejects a request by a municipality  
5 to make application to the commissioner for approval of a  
6 pre-existing district, or fails to respond to a request <sup>3</sup>[of this  
7 kind]<sup>3</sup> within 90 days of <sup>3</sup>[its having been made of] receipt of  
8 the request<sup>3</sup> , the municipality may apply directly to the  
9 commissioner for approval of the district and any transportation  
10 improvement and financial plan then in existence pursuant to  
11 the procedures set forth in subsection b. of section 4 of this act  
12 and subsection b. of section 6 of this act.

13 c. The operation and financing of any pre-existing districts  
14 may <sup>3</sup>[be continued] continue<sup>3</sup> pending action by the  
15 commissioner. In addition, the provisions of section 9 of this act  
16 shall not be applicable to projects <sup>3</sup>in pre-existing districts<sup>3</sup>  
17 which were the subject of agreements or funding commitments  
18 made prior to the effective date of this act. Furthermore, any  
19 such project, or any such agreement, shall not be construed to  
20 exempt any party from compliance with departmental rules,  
21 regulations, or orders.

22 d. The commissioner shall, within 90 days of receipt of a  
23 completed application and upon review of the application as to  
24 sufficiency and conformity with the purposes of this act, (1) by  
25 order designate a district and delineate its boundaries in  
26 conformance with the application, or (2) disapprove the  
27 application and inform the governing body of the county in  
28 writing of the reasons for the disapproval. The governing body  
29 may, in the case of a disapproval of its application, resubmit an  
30 application incorporating whatever revisions it deems  
31 appropriate, taking into consideration the commissioner's  
32 reasons for disapproval.

33 e. The commissioner may, in an order made under subsection  
34 d. of this section designating a district and delineating its  
35 boundaries, provide for the waiver or consolidation of any  
36 requirements of sections 5 and 6 of this act where, in the  
37 commissioner's judgment, that waiver or consolidation is  
38 justified by the public interest and by the purposes of this act.  
39 The commissioner may also include in the order any other

1 provisions which the commissioner believes to be necessary and  
2 desirable for effecting an orderly transition from the operation  
3 of a district or districts previously established to the operation  
4 of a transportation development district under this act.<sup>2</sup>

5 <sup>3</sup>[<sup>2</sup>18. (New Section) a. The commissioner shall, subject to  
6 the availability of appropriations, allocate State aid under the  
7 terms and conditions of this act to counties which have  
8 established transportation development districts. State aid  
9 provided under this section shall be provided for the purpose of  
10 undertaking transportation projects in district transportation  
11 improvement plans approved under section 6 of this act and for  
12 the purpose of assisting in the development of district  
13 transportation improvement plans under section 5 of this act and  
14 shall be allocated on a pro rata basis among all counties which  
15 have established transportation development districts in  
16 proportion to the development fees assessed within a district or  
17 in proportion to funds appropriated by a county for the  
18 development of a district transportation improvement plan, as  
19 appropriate, except that the total amount of State aid so  
20 allocated shall not exceed the total amount of development fees  
21 assessed in all transportation development districts and plan  
22 development funds appropriated by all counties.

23 b. When the commissioner determines in any fiscal year that  
24 the funds appropriated for the purposes of this section exceed  
25 the total amount of development fees assessed and plan  
26 development funds appropriated by counties which have  
27 established transportation development districts, the  
28 commissioner may allocate these funds to counties and  
29 municipalities at his discretion for purposes consistent with this  
30 act.<sup>2</sup>]<sup>3</sup>

31 <sup>3</sup>[<sup>2</sup>19.] 18.<sup>3</sup> (New Section) The commissioner upon notice and  
32 the holding of a public hearing shall adopt the rules and  
33 regulations, in accordance with the "Administrative Procedure  
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to  
35 effectuate the purposes of this act, except that any  
36 transportation development district trust fund established under  
37 section 7 of this act shall be administered in accordance with all  
38 of the regulations adopted by the Local Finance Board or the  
39 Division of Local Government Services of the Department of

1 Community Affairs which are applicable to county funds  
2 generally, and that the Local Finance Board shall have authority  
3 to adopt, after consultation with the commissioner, regulations  
4 specifically governing the administration of transportation  
5 development district trust funds.<sup>2</sup>

6 <sup>3</sup>19. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to  
7 read as follows:

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

12 a. The amount of revenue generated by the increase in  
13 valuations, based solely on applying the preceding year's general  
14 tax rate of the municipality to the assessed value of new  
15 construction or improvements, or by payments in lieu of taxes  
16 made by a tax-exempt public entity to the extent that the  
17 payment received for any single property exceeds the amount of  
18 property taxes received on that property in the year  
19 immediately preceding the acquisition of that property by the  
20 public entity, or, in the case of State property subject to the  
21 provisions of P.L.1977, c.272 (C.54:4-2.2a et seq.), to the extent  
22 that the total State payment exceeds the amount received in the  
23 1982 budget year;

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

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

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

3 (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  
5 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  
7 approved by at least two-thirds of the governing body and the  
Director of the Division of Local Government Services. Neither  
9 approval procedure in paragraph (1) or (2) of this subsection shall  
apply to appropriations adopted for a purpose referred to in  
11 subsection d. or j. below;

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

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

f. Amounts reserved for uncollected taxes;

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

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

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

27 j. Amounts required to be paid pursuant to (1) any contract  
with respect to use, service or provision of any project, facility  
29 or public improvement for water, sewerage, parking, senior  
citizen housing or any similar purpose, or payments on account  
31 of debt service therefor, between a municipality and any other  
municipality, county, school or other district, agency, authority,  
33 commission, instrumentality, public corporation, body corporate  
and politic or political subdivision of this State; (2) the  
35 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  
37 account; and (3) any lease of a facility owned by a county  
improvement authority when the lease payment represents the  
39 proportionate amount necessary to amortize the debt

- 1 incurred by the authority in providing the facility which is  
leased, in whole or in part;
- 3 k. (Deleted by amendment, P.L.1987, c.74.)
- 5 l. Programs funded wholly or in part by federal or State funds  
and amounts received or to be received from federal, State or  
7 other funds in reimbursement for local expenditures. If a  
municipality provides matching funds in order to receive the  
federal or State funds, only the amount of the match which is  
9 required by law to be provided by the municipality shall be  
excepted;
- 11 m. (Deleted by amendment, P.L.1987, c.74.)
- 13 n. (Deleted by amendment, P.L.1987, c.74.)
- 15 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  
17 of new or increased federal or State general purposes aid  
explicitly provided for the purpose of replacing the decrease in  
federal aid;
- 19 p. (Deleted by amendment, P.L.1987, c.74.)
- 21 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;
- 23 r. Amounts expended to fund a free public library established  
pursuant to the provisions of R.S.40:54-1 through 40:54-29,  
25 inclusive;
- 27 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  
29 by the Department of Environmental Protection for the  
Construction, improvement, repair or rehabilitation of public  
31 water supply systems pursuant to P.L.1981, c.262 (C.58:1A-1 et  
seq.);
- 33 t. Amounts expended in preparing and implementing a housing  
element and fair share plan pursuant to the provisions of  
35 P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received  
by a municipality under a regional contribution agreement  
37 pursuant to section 12 of that act;
- 39 u. Amounts expended to meet the standards established  
pursuant to the "New Jersey Public Employees' Occupational

- 1 Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);
- 3 v. Amounts appropriated for the cost of providing insurance  
coverage for the municipality, its departments, boards,  
5 agencies, commissions, officers and employees, which exceed  
the amount appropriated therefor, in the 1985 local budget;
- 7 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);
- 9 x. Amounts expended to aid privately owned libraries and  
reading rooms, pursuant to R.S. 40:54-35; [or]
- 11 y. Amounts appropriated for the cost of purchasing, leasing  
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
- 15 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. , c. (C. ) (Now pending  
17 before the Legislature as this bill).<sup>3</sup>  
(cf: P.L.1989, c.3, s.17)
- 19 <sup>3</sup>[20. (New Section) If any, clause, sentence, paragraph,  
section or part of this act is adjudged by any court of competent  
21 jurisdiction to be invalid, the judgment shall not affect, impair  
or invalidate the remainder hereof, but shall be confined in its  
23 operation to the clause, sentence, paragraph, section or part  
hereof directly involved in the controversy in which the  
25 judgment is rendered.]<sup>2</sup><sup>3</sup>
- 27 <sup>3</sup>20. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to  
read as follows:
- 29 4. In the preparation of its budget, a county may not increase  
the county tax levy to be apportioned among its constituent  
31 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:
- 33 a. The amount of revenue generated by the increase in  
valuations within the county, based solely on applying the  
35 preceding year's county tax rate to the apportionment valuation  
of new construction or improvements within the county, and  
37 such increase shall be levied in direct proportion to said  
valuation;
- 39 b. Capital expenditures, including appropriations for current

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

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

(2) An increase based upon special emergency appropriations  
19 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  
21 (C.40A:4-55.13). Special emergency appropriations shall be  
approved by at least two-thirds of the governing body, and,  
23 where appropriate, approved by the chief executive officer of  
the county and the Director of the Division of Local  
25 Government Services. Neither approval procedure in paragraph  
(1) or (2) of this subsection shall apply to appropriations adopted  
27 for a purpose referred to in subsection d. or j. below;

d. All debt service;

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

31 f. Amounts required to be paid pursuant to (1) any contract  
with respect to use, service or provision of any project, facility  
33 or public improvement for water, sewerage, parking, senior  
citizen housing or any similar purpose, or payments on account  
35 of debt service therefor, between a county and any other  
county, municipality, school or other district, agency, authority,  
37 commission, instrumentality, public corporation, body corporate  
and politic or political subdivision of this State; and (2) any lease  
39 of a facility owned by a county improvement authority when the



1 lease payment represents the proportionate amount necessary to  
2 amortize the debt incurred by the authority in providing the  
3 facility which is leased, in whole or in part;

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

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

12 i. Any decrease in amounts received pursuant to any federal  
13 general purposes aid program from the amounts received in local  
14 budget year 1982, after deducting from the decrease any amount  
15 of new or increased federal or State general purposes aid  
16 explicitly provided for the purpose of replacing the decrease in  
17 federal aid;

18 j. Amounts expended for the conduct of any special election  
19 required by law to be held at a time other than the time of the  
20 general election;

21 k. Any additional expenditures for the testing of water  
22 supplies pursuant to P.L.1983, c.443 (C.58:12A-12 et al.);

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

26 m. Amounts appropriated for the cost of providing insurance  
27 coverage for the county, its departments, boards, agencies,  
28 commissions, officers and employees, which exceed the amount  
29 appropriated therefor in the 1985 local budget; [or]

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

33 o. Amounts appropriated for a project in a transportation  
34 development district as may be provided in a project agreement  
35 pursuant to the provisions of P.L. , c. (C. ) (now pending  
36 before the Legislature as this bill).<sup>3</sup>

37 (cf:P.L.1989, c.3, s.18)

38 <sup>2</sup>21. (New Section) This act shall be interpreted liberally to  
39 effect the purposes set forth herein.<sup>2</sup>

1       <sup>2</sup>22. (New Section) There is appropriated from the General  
2       Fund to the Department of Transportation the sum of \$250,000  
3       for the implementation of this act.<sup>2</sup>

4       <sup>2</sup>23. This act shall take effect immediately.<sup>2</sup>

5

7

TRANSPORTATION  
Building and Construction

9

11       Establishes the "New Jersey Transportation Development  
District Act of 1989;" appropriates \$250,000.

1       16. If any clause, sentence, paragraph, section or part of this  
act is adjudged by any court of competent jurisdiction to be  
3       invalid, the judgment shall not affect, impair or invalidate the  
remainder hereof, but shall be confined in its operation to the  
5       clause, sentence, paragraph, section or part hereof directly  
involved in the controversy in which the judgment is rendered.

7       17. This act shall be interpreted liberally to effect the  
purposes set forth herein.

9       18. This act shall take effect immediately.

11

## STATEMENT

13

The need for transportation improvements caused by rapid  
15       development in New Jersey's growth corridors far exceeds the  
resources available to State, county and municipal governments  
17       to pay for those improvements. This bill would authorize these  
governmental bodies and developers to join together in regional  
19       partnerships to plan and finance the improvements needed to  
accommodate and facilitate growth. Specifically, the bill would  
21       enable counties, in conjunction with the Department of  
Transportation, to establish transportation development districts  
23       (TDDs) in New Jersey's growth corridors. A county which had  
set up such a district would be empowered to assess, by  
25       ordinance, development fees to be used to finance  
transportation improvements. All funds would be required to be  
27       spent in accordance with a district transportation improvement  
plan and individual project agreements approved by the  
29       Commissioner of Transportation. TDD funds could be used to  
finance, in whole or in part, improvement projects on State  
31       highways, county roads or municipal streets or other  
transportation capital projects, as needed, within the district.

33       The State would assist the development of TDDs in two ways.  
First, the New Jersey Transportation Trust Fund Authority  
35       would be authorized to serve as "banker" to TDDs through  
advancing cash for projects which would then be repaid from  
37       projected revenue. Second, a special State aid program would  
be established to provide matching funds for fees assessed in  
39       TDDs.

*S19 (1988)*

SENATE REVENUE, FINANCE AND  
APPROPRIATIONS COMMITTEE

STATEMENT TO

[SECOND REPRINT]

**SENATE, No. 19**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 23, 1989

The Senate Revenue, Finance and Appropriations Committee reported Senate Bill No. 19 (2R) favorably with committee amendments.

Senate Bill No. 19 (2R), as amended, establishes procedures for the creation of transportation development districts and appropriates \$250,000 to the Department of Transportation to hire consultants.

Specifically, the bill enables counties, in conjunction with the Department of Transportation, to establish transportation development districts (TDDs) in New Jersey's growth corridors. A county which establishes a district is empowered to assess, by ordinance, development fees to finance transportation improvements. All funds are required to be spent in accordance with a district transportation improvement plan and individual project agreements approved by the Commissioner of Transportation. TDD funds may be used to finance, in whole or in part, improvement projects on State highways, county roads or municipal streets or other transportation projects, as needed, within the district.

The commissioner is to establish a formula or formulas to be used in assessing development fees and these fees must be reasonably related to the added burden attributable to a particular development. The bill, as amended, does provide an exemption from fee assessment of low and moderate income housing developments. The bill also provides that approval of a development application by any State, county or municipal body or agency shall not be withheld or delayed because of the necessity to construct an off-site transportation improvement if the developer has contributed his "fair share" obligation under this bill. Any fees collected but not committed to a transportation project under a project agreement entered into within ten years of the date of collection shall be refunded to the feepayer.

The bill provides that, in certain cases, a municipality may create a TDD with the approval of the commissioner. In addition,

the bill permits the department to create a transportation development district if the commissioner determines that the creation of such a district is critically important and the county has been requested to form such a district or districts but has failed to do so. The bill also provides for the administration of the development district trust funds and the initiation, consolidation or dissolution of TDDs.

#### COMMITTEE AMENDMENTS

The committee amendments:

- a. Clarify several provisions of the bill;
- b. Provide that low and moderate income housing developments shall not be assessed development fees;
- c. Clarify that the Commissioner may make loans to districts for State-owned projects only;
- d. Delete the provisions concerning additional State aid to districts; and
- e. Clarify the provisions concerning pre-existing municipal transportation districts.

#### FISCAL IMPACT

This bill appropriates \$250,000 from the General Fund to the Department of Transportation. The department has indicated that the money will be used to hire consultants.

SENATE TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

**SENATE, No. 19**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 6, 1989

The Senate Transportation and Communications Committee favorably reports Senate Bill No. 19 (1R) with committee amendments.

The amendments conform this bill to Assembly Bill No. 2205, as amended on January 23, 1989 by the Assembly Transportation and Communications Committee.

The need for transportation improvements caused by rapid development in New Jersey's growth corridors far exceeds the resources available to State, county and municipal governments to pay for those improvements. This amended bill would authorize these governmental bodies and developers to join together in regional partnerships to plan and finance the improvements needed to accommodate and facilitate growth. Specifically, the bill would enable counties, in conjunction with the Department of Transportation, to establish transportation development districts (TDDs) in New Jersey's growth corridors. A county which had set up such a district would be empowered to assess, by ordinance, development fees to be used to finance transportation improvements. All funds would be required to be spent in accordance with a district transportation improvement plan and individual project agreements approved by the Commissioner of Transportation. TDD funds could be used to finance, in whole or in part, improvement projects on State highways, county roads or municipal streets or other transportation projects, as needed, within the district.

The State would assist the development of TDDs in two ways. First, the New Jersey Transportation Trust Fund Authority would be authorized to serve as "banker" to TDDs through advancing cash for projects which would then be repaid from projected revenue. Second, a special State aid program would be established to provide matching funds for fees assessed in TDDs.

Development fees to be assessed and charged to any particular development must be reasonably related, within the context of a practicable scheme for assessing fees within a district, to the added burden attributable to that development. The fee shall be assessed on a development at the time the development receives preliminary approval from the municipal approval authority or, where the municipality has not enacted an ordinance requiring approval of the development, at the time that a construction permit is issued. Any development or phase thereof which has received preliminary approval prior to the development assessment liability date, defined as the date upon which the commissioner has adopted an order designating a district, shall not be subject to the assessment but shall be liable for the payment of off-site transportation improvements to the extent agreed upon under the applicable law, rule, regulation, ordinance or resolution in effect at the time of the agreement. Any development or phase thereof which receives preliminary approval after the development liability assessment date shall be subject to the assessment but shall receive a credit against the fee for the amount paid or obligated to be paid State, county or municipal agencies for the cost of off-site transportation improvements under agreements entered into under the applicable law, rule, regulation, ordinance, or resolution in effect at the time of the agreement. Approval of a development application by any State, county or municipal body or agency shall not be withheld or delayed because of the necessity to construct an off-site transportation improvement if the developer has satisfied his "fair share" obligation under this bill. Any fees collected but not committed to a transportation project under a project agreement entered into within ten years of the date of collection shall generally be refunded to the feepayer.

The assessment of development fees shall be based upon the formula authorized by regulation of the commissioner for the category of district in question relating the amount of the fee to impact on the transportation system. The commissioner may authorize a formula, or formulas, including but not limited to, the following factors: vehicle trips generated by the development, the occupied square footage of a developed structure, the number of employees regularly employed at the development, and the number of parking spaces located at the development. In developing the authorized formula or formulas the commissioner shall consult with knowledgeable persons in appropriate fields, including but not limited

to land use law, planning, traffic engineering, real estate development, transportation and local government.

The creation and operation of a transportation development district by the Department of Transportation is provided for where the creation of such a district is critically important and where the county has been requested to form such a district or districts but has declined to do so. The administration of the development district trust funds and the initiation, consolidation or dissolution of TDD's, is provided for as is an appropriation of \$250,000 from the General Fund to the Department of Transportation.

This bill is changed to conform to A-2205 (1R) as follows: The procedures available to municipalities are clarified when a county fails to respond to a municipality's petition requesting a county to begin the process to establish a TDD. Also clarified is which governmental entity will operate a district which has been established after a county has failed to respond to a municipal petition by requiring the commissioner to designate that entity. The changes also include language to permit participation of all affected counties and municipalities as well as private representatives in the planning process following the designation and delineation of a TDD and require notification at that time of each affected governmental unit.

The changes to section 17 of this bill are intended to permit pre-existing municipal districts to remain in being when a county district including the same area has not been created. Once a county district is formed, however, any existing municipal district whose boundaries are within the county district is intended by the committee to be included in and be a part of the transportation development district created pursuant to this act.



661



OFFICE OF THE GOVERNOR

**NEWS RELEASE**

Governor Thomas H. Kean  
TRENTON, N.J. 08625  
Release: MON., 6/26/89

CN-001

Contact:

BOB MCHUGH

609-292-8956 OR 609-292-6000 EXT. 207

Governor Thomas H. Kean today signed "The New Jersey Transportation Development District Act of 1989," which provides for regional solutions to the state's overcrowded roads and highways. The bill is S-19.

The act, sponsored by Senator Walter Rand, D-Camden, and Assemblymen Robert Littell, R-Sussex, and George Spadoro, D-Middlesex, empowers the state, counties and municipalities to band together in state-designated "transportation development districts" to respond to regional growth.

Kean's signing of the legislation puts in place the second phase of "New Jersey Transplan," the Governor's comprehensive, three-pronged response to the state's transportation growing pains. The first phase of Transplan was signed into law by the Governor in February. The final phase awaits legislative approval.

The new measure addresses a very real concern among state and local officials: that there will never be enough public money available to meet all the state's transportation needs.

As an alternative, the law permits the creation of transportation development districts, or TDDs, in which state, county and local officials can meet to plan and develop financing for transportation improvements.

Developers seeking to build within TDDs will be assessed a fair share of the transportation costs, based on an estimate of the traffic their development will generate.

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