

# 18A:6-114

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2010            **CHAPTER:** 44

**NJSA:** 18A:6-114 (Reduces school district, county, and municipal property tax levy cap from 4% to 2.0% and permits unused school district, county, and municipal increases to be banked for three succeeding years)

**BILL NO:** S29     (Substituted for A3065)

**SPONSOR(S)** Sweeney and others

**DATE INTRODUCED:** June 21, 2010

**COMMITTEE:**            **ASSEMBLY:** ---

**SENATE:** Budget and Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** July 12, 2010

**SENATE:** July 8, 2010

**DATE OF APPROVAL:** July 13, 2010

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (First reprint enacted)

**S29**

**SPONSOR'S STATEMENT:** (Begins on page 28 of introduced bill) Yes

**COMMITTEE STATEMENT:**                            **ASSEMBLY:** No

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**A3065**

**SPONSOR'S STATEMENT:** (Begins on page 28 of introduced bill) Yes

**COMMITTEE STATEMENT:**                            **ASSEMBLY:** Yes

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

(continued)

**VETO MESSAGE:** Yes

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

- "Tax cap bill signed into law," Courier News, 7-14-10
- "Christie signs property tax cap bill," Courier-Post, 7-14-10
- "NJ governor signs property tax cap bill," Burlington County Times, 7-14-10
- "Christie signs property tax cap bill," Home News Tribune, 7-14-10
- "2% tax cap signed into law by gov," Asbury Park Press, 7-14-10
- "Christie signs tax cap measure," The Press of Atlantic City, 7-14-10
- "Tax cap bill is signed with high hopes for sweeping change, but some see no relief," The Star-Ledger, 7-14-10
- "Christie signs landmark bill to cap taxes," The Record, 7-14-10
- "Christie signs tax cap bill," the Times, 7-14-10
- "Franklin votes to back governor's property tax cap," Gloucester County Times, 7-14-10
- "Christie signs 2% Cap on New Jersey Property Taxes," Bloomberg Press, 7-14-10
- "Property Tax Cap Signed by Christie, Tool Kit Up Next," New Jersey 101.5 FM Radio, 7-14-10
- "Tipping His Cap," The Trentonian, 7-14-10
- "Governor's signature caps tax hikes at 2%," The Philadelphia Inquirer, 7-14-10
- "Cap 2.0: One Proposal Down, 32 to Go," NJ Spotlight, 7-14-10

LAW/RWH

[First Reprint]  
**SENATE, No. 29**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED JUNE 21, 2010

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman PETER J. BARNES, III**

**District 18 (Middlesex)**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Salem, Cumberland and Gloucester)**

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**District 1 (Cape May, Atlantic and Cumberland)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Senator JIM WHELAN**

**District 2 (Atlantic)**

**Senator KEVIN J. O'TOOLE**

**District 40 (Bergen, Essex and Passaic)**

**Senator JOSEPH M. KYRILLOS, JR.**

**District 13 (Middlesex and Monmouth)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**SYNOPSIS**

Reduces school district, county, and municipal property tax levy cap from 4% to 2.0% and permits unused school district, county, and municipal increases to be banked for three succeeding years.

**CURRENT VERSION OF TEXT**

As amended on July 8, 2010 by the Senate pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 7/13/2010)

1 AN ACT concerning the calculation of the local tax levy cap and  
2 revising parts of the statutory law.

3

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

6

7 1. Section 1 of P.L.2009, c.80 (C.18A:6-114) is amended to  
8 read as follows:

9 1. a. In counties in which there is located a municipality that  
10 had a population of 60,000 persons or more, as reported in the latest  
11 federal decennial census published prior to the enactment of this  
12 act, the board of education of each district that is a district factor  
13 group A or B school district that also is a kindergarten through  
14 grade 12 district with a concentration of at-risk pupils greater than  
15 40%, in conjunction with the local governing body of the  
16 municipality in which the district is located, shall develop a plan for  
17 a comprehensive program of after school activities for students  
18 enrolled in the district.

19 b. The plan shall include, but need not be limited to, the  
20 following:

21 (1) the goals and objectives of the program and the ways in  
22 which it will serve the needs and interests of the students in the  
23 district;

24 (2) a detailed description of the recreational, academic and civic  
25 enrichment activities that will be offered pursuant to the program;

26 (3) the background and qualifications of personnel who will  
27 direct and supervise the program;

28 (4) a schedule of the days and hours during which the program  
29 will operate;

30 (5) the criteria which will be utilized to determine eligibility for  
31 student participation in the program;

32 (6) an estimate of the number of students who will be served by  
33 the program;

34 (7) an estimate of the overall cost of the program and the  
35 amount of general fund tax levy required to be raised by the district  
36 to support the program; and

37 (8) any other information which the board determines to be  
38 necessary.

39 c. After the plan has been developed, the board of education, in  
40 conjunction with the local governing body, shall conduct two public  
41 hearings to receive community input on the plan.

42 d. After the plan for the comprehensive program of after school  
43 activities has been adopted by resolution of the board of education,  
44 the amount of any additional general fund tax levy required to be

**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 amendments adopted in accordance with Governor's recommendations July 8, 2010.

1 raised by the district to implement the program required pursuant to  
2 this act shall be submitted to the voters of the district or the board  
3 of school estimate, as appropriate; except that the amount of any  
4 additional general fund tax levy shall not exceed \$2,000,000. If  
5 approved by the voters or the board of school estimate, the amount  
6 so approved shall be assessed, levied and collected in the manner  
7 provided by law. If the voters or the board of school estimate does  
8 not approve the additional general fund tax levy, the district shall  
9 not be required to implement the plan developed pursuant to this  
10 act.

11 e. Any additional general fund tax levy raised to implement the  
12 comprehensive program of after school activities established  
13 pursuant to this act shall not be used to supplant State or local funds  
14 allocated to support after school programs operated by the district  
15 as of the effective date of this act.

16 f. Amounts raised for the comprehensive program of after  
17 school activities established pursuant to this act shall be accounted  
18 for in a special revenue fund and used solely for the purposes of the  
19 program.

20 g. The amount of any additional general fund tax levy raised in  
21 any budget year pursuant to subsection d. of this section shall be an  
22 adjustment to the district's tax levy growth limitation as calculated  
23 pursuant to section 3 of P.L.2007, c.62 (C.18A:7F-38) [or the  
24 district's spending growth limitation as calculated pursuant to  
25 section 5 of P.L.1996, c.138 (C.18A:7F-5), as applicable].

26 (cf: P.L.2009, c.80, s.1)

27

28 <sup>1</sup>[2. N.J.S.18A:7-8 is amended to read as follows:

29 18A:7-8. Each executive county superintendent shall:

30 a. Visit and examine from time to time all of the schools under  
31 his general supervision and exercise general supervision over them  
32 in accordance with the rules prescribed from time to time by the  
33 State board;

34 b. Keep himself informed as to the management, methods of  
35 instruction and discipline and the courses of study and textbooks in  
36 use, the condition of the school libraries, and the condition of the  
37 real and personal property, particularly in respect to the  
38 construction, heating, ventilation and lighting of school buildings,  
39 in the local districts under his general supervision, and make  
40 recommendations in connection therewith;

41 c. Advise with and counsel the boards of education of the local  
42 districts under his general supervision and of any other district of  
43 the county when so requested, in relation to the performance of  
44 their duties;

45 d. Promote administrative and operational efficiencies and cost  
46 savings within the school districts in the county while ensuring that  
47 the districts provide a thorough and efficient system of education;

- 1 e. Based on standards adopted by the commissioner,  
2 recommend to the commissioner, who is hereby granted the  
3 authority to effectuate those recommendations, that certain school  
4 districts be required to enter arrangements with one or more other  
5 school districts or educational services commissions for the  
6 consolidation of the district's administrative services;
- 7 f. Recommend to the commissioner the elimination of laws the  
8 executive county superintendent determines to be unnecessary State  
9 education mandates, other than the categories of laws set forth in  
10 section 3 of P.L.1996, c.24 (C.52:13H-3);
- 11 g. Eliminate districts located in the county that are not  
12 operating schools on the effective date of P.L.2009, c.78 (C.18A:8-  
13 43 et al.), in accordance with a plan and schedule included in the  
14 plan submitted to and approved by the commissioner;
- 15 h. No later than three years following the effective date of  
16 sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), recommend  
17 to the commissioner a school district consolidation plan to eliminate  
18 all districts, other than county-based districts and other than  
19 preschool or kindergarten through grade 12 districts in the county,  
20 through the establishment or enlargement of regional school  
21 districts. After the approval of the plan by the commissioner, the  
22 executive county superintendent shall require each board of  
23 education covered by a proposal in the plan to conduct a special  
24 school election, at a time to be determined by the executive county  
25 superintendent, and submit thereat the question whether or not the  
26 executive county superintendent's proposal for the regionalization  
27 of the school district shall be adopted. The question shall be  
28 deemed adopted if it receives a vote in accordance with the  
29 provisions of N.J.S.18A:13-5. If the question is adopted by the  
30 voters, then the regional district shall be established or enlarged in  
31 accordance with chapter 13 of Title 18A of the New Jersey Statutes;
- 32 i. Promote coordination and regionalization of pupil  
33 transportation services through means such as reviewing bus routes  
34 and schedules of school districts and nonpublic schools within the  
35 county;
- 36 j. Review and approve, according to standards adopted by the  
37 commissioner, all employment contracts for superintendents of  
38 schools, assistant superintendents of schools, and school business  
39 administrators in school districts within the county, prior to the  
40 execution of those contracts;
- 41 k. Request the commissioner to order a forensic audit and to  
42 select an auditor for any school district in the county upon the  
43 determination by the executive county superintendent, according to  
44 standards adopted by the commissioner, that the accounting  
45 practices in the district necessitate such an audit;
- 46 l. Review all school budgets of the school districts within the  
47 county, and may, pursuant to section 5 of P.L.1996, c.138  
48 (C.18A:7F-5), disapprove a portion of a school district's proposed

1 budget if he determines that the district has not implemented all  
2 potential efficiencies in the administrative operations of the district  
3 or if he determines that the budget includes excessive non-  
4 instructional expenses. If the executive county superintendent  
5 disapproves a portion of the school district's budget pursuant to this  
6 paragraph, the school district shall deduct the disapproved amounts  
7 from the budget prior to publication of the budget, and during the  
8 budget year the school district shall not transfer funds back into  
9 those accounts;

10 m. [Permit a district to submit to the voters a separate proposal  
11 or proposals for additional funds pursuant to paragraph (9) of  
12 subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), only if:  
13 (1) the district provides the executive county superintendent with  
14 written documentation that the district has made efforts to enter into  
15 shared arrangements with other districts, municipalities, counties,  
16 and other units of local government for the provision of  
17 administrative, business, purchasing, public and nonpublic  
18 transportation, and other required school district services; (2) the  
19 district certifies and provides written documentation that the district  
20 participates in on-going shared arrangements; or (3) the district  
21 certifies and provides written documentation that entering such  
22 shared arrangements would not result in cost savings or would  
23 result in additional expenses for the district;] (Deleted by  
24 amendment, P.L. , c. ) (pending before the Legislature as this  
25 bill)

26 n. Promote cooperative purchasing within the county of  
27 textbooks and other instructional materials;

28 o. Coordinate with the Department of Education to maintain a  
29 real time Statewide and district-wide database that tracks the types  
30 and capacity of special education programs being implemented by  
31 each district and the number of students enrolled in each program to  
32 identify program availability and needs;

33 p. Coordinate with the Department of Education to maintain a  
34 Statewide and district-wide list of all special education students  
35 served in out-of-district programs and a list of all public and private  
36 entities approved to receive special education students that includes  
37 pertinent information such as audit results and tuition charges;

38 q. Serve as a referral source for districts that do not have  
39 appropriate in-district programs for special education students and  
40 provide those districts with information on placement options in  
41 other school districts;

42 r. Conduct regional planning and identification of program  
43 needs for the development of in-district special education programs;

44 s. Serve as a liaison to facilitate shared special education  
45 services within the county including, but not limited to direct  
46 services, personnel development, and technical assistance;

47 t. Work with districts to develop in-district special education  
48 programs and services including providing training in inclusive

1 education, positive behavior supports, transition to adult life, and  
2 parent-professional collaboration;

3 u. Provide assistance to districts in budgetary planning for  
4 resource realignment and reallocation to direct special education  
5 resources into the classroom;

6 v. Report on a regular basis to the commissioner on progress in  
7 achieving the goal of increasing the number of special education  
8 students educated in appropriate programs with non-disabled  
9 students;

10 w. Render a report to the commissioner annually on or before  
11 September 1, in the manner and form prescribed by him, of such  
12 matters relating to the schools under his jurisdiction as the  
13 commissioner shall require; and

14 x. Perform such other duties as shall be prescribed by law.

15 Any budgetary action of the executive county superintendent  
16 under this section may be appealed directly to the commissioner,  
17 who shall render a decision within 15 days of the receipt of the  
18 appeal. If the commissioner fails to issue a decision within 15 days  
19 of the filing of an appeal, the budgetary action of the executive  
20 county superintendent shall be deemed approved. The  
21 commissioner shall by regulation establish a procedure for such  
22 appeals.

23 Nothing in this section shall be construed or interpreted to  
24 contravene or modify the provisions of the "New Jersey Employer-  
25 Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), or  
26 to limit or restrict the scope of negotiations as provided pursuant to  
27 law, or to require an employer to enter into a subcontracting  
28 agreement which affects the employment of any employee in a  
29 collective bargaining unit represented by a majority representative  
30 during the time that an existing collective bargaining agreement  
31 with the majority representative is in effect.

32 Nothing in this section is intended to interfere with a school  
33 district's ability to provide a thorough and efficient education.

34 (cf: P.L.2009, c.78, s.10)]<sup>1</sup>

35

36 <sup>1</sup>[3.] 2.<sup>1</sup> Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended  
37 to read as follows:

38 5. As used in this section, "cost of living" means the CPI as  
39 defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

40 a. Within 30 days following the approval of the Educational  
41 Adequacy Report, the commissioner shall notify each district of the  
42 base per pupil amount, the per pupil amounts for full-day preschool,  
43 the weights for grade level, county vocational school districts, at-  
44 risk pupils, bilingual pupils, and combination pupils, the cost  
45 coefficients for security aid and for transportation aid, the State  
46 average classification rate and the excess cost for general special  
47 education services pupils, the State average classification rate and  
48 the excess cost for speech-only pupils, and the geographic cost



1 adjustment for each of the school years to which the report is  
2 applicable.

3 Annually, within two days following the transmittal of the State  
4 budget message to the Legislature by the Governor pursuant to  
5 section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner  
6 shall notify each district of the maximum amount of aid payable to  
7 the district in the succeeding school year pursuant to the provisions  
8 of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each  
9 district of the district's adequacy budget for the succeeding school  
10 year.

11 For the 2008-2009 school year and thereafter, unless otherwise  
12 specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts  
13 payable for the budget year shall be based on budget year pupil  
14 counts, which shall be projected by the commissioner using data  
15 from prior years. Adjustments for the actual pupil counts of the  
16 budget year shall be made to State aid amounts payable during the  
17 school year succeeding the budget year. Additional amounts  
18 payable shall be reflected as revenue and an account receivable for  
19 the budget year.

20 Notwithstanding any other provision of this act to the contrary,  
21 each district's State aid payable for the 2008-2009 school year, with  
22 the exception of aid for school facilities projects, shall be based on  
23 simulations employing the various formulas and State aid amounts  
24 contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The  
25 commissioner shall prepare a report dated December 12, 2007  
26 reflecting the State aid amounts payable by category for each  
27 district and shall submit the report to the Legislature prior to the  
28 adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as  
29 otherwise provided pursuant to this subsection and paragraph (3) of  
30 subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the  
31 amounts contained in the commissioner's report shall be the final  
32 amounts payable and shall not be subsequently adjusted other than  
33 to reflect the phase-in of the required general fund local levy  
34 pursuant to paragraph (4) of subsection b. of section 16 of  
35 P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to  
36 which a district may be entitled pursuant to section 20 of that act.  
37 The projected pupil counts and equalized valuations used for the  
38 calculation of State aid shall also be used for the calculation of  
39 adequacy budget, local share, and required local share. For 2008-  
40 2009, extraordinary special education State aid shall be included as  
41 a projected amount in the commissioner's report dated December  
42 12, 2007 pending the final approval of applications for the aid. If  
43 the actual award of extraordinary special education State aid is  
44 greater than the projected amount, the district shall receive the  
45 increase in the aid payable in the subsequent school year pursuant  
46 to the provisions of subsection c. of section 13 of P.L.2007, c.260  
47 (C.18A:7F-55). If the actual award of extraordinary special  
48 education State aid is less than the projected amount, other State aid

1 categories shall be adjusted accordingly so that the district shall not  
2 receive less State aid than as provided in accordance with the  
3 provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47  
4 and C.18A:7F-58).

5 In the event that the commissioner determines, following the  
6 enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the  
7 issuance of State aid notices for the 2008-2009 school year, that a  
8 significant district-specific change in data warrants an increase in  
9 State aid for that district, the commissioner may adjust the State aid  
10 amount provided for the district in the December 12, 2007 report to  
11 reflect the increase.

12 b. Each district shall have a required local share. For districts  
13 that receive educational adequacy aid pursuant to subsection b. of  
14 section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local  
15 share shall be calculated in accordance with the provisions of that  
16 subsection.

17 For all other districts, the required local share shall equal the  
18 lesser of the local share calculated at the district's adequacy budget  
19 pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the  
20 district's budgeted local share for the prebudget year.

21 In order to meet this requirement, each district shall raise a  
22 general fund tax levy which equals its required local share.

23 No municipal governing body or bodies or board of school  
24 estimate, as appropriate, shall certify a general fund tax levy which  
25 does not meet the required local share provisions of this section.

26 c. Annually, on or before March 4, each district board of  
27 education shall adopt, and submit to the commissioner for approval,  
28 together with such supporting documentation as the commissioner  
29 may prescribe, a budget that provides for a thorough and efficient  
30 education. Notwithstanding the provisions of this subsection to the  
31 contrary, the commissioner may adjust the date for the submission  
32 of district budgets if the commissioner determines that the  
33 availability of preliminary aid numbers for the subsequent school  
34 year warrants such adjustment.

35 Notwithstanding any provision of this section to the contrary, for  
36 the 2005-2006 school year each district board of education shall  
37 submit a proposed budget in which the advertised per pupil  
38 administrative costs do not exceed the lower of the following:

39 (1) the district's advertised per pupil administrative costs for the  
40 2004-2005 school year inflated by the cost of living or 2.5 percent,  
41 whichever is greater; or

42 (2) the per pupil administrative cost limits for the district's  
43 region as determined by the commissioner based on audited  
44 expenditures for the 2003-2004 school year.

45 The executive county superintendent of schools may disapprove  
46 the school district's 2005-2006 proposed budget if he determines  
47 that the district has not implemented all potential efficiencies in the  
48 administrative operations of the district. The executive county

1 superintendent shall work with each school district in the county  
2 during the 2004-2005 school year to identify administrative  
3 inefficiencies in the operations of the district that might cause the  
4 superintendent to reject the district's proposed 2005-2006 school  
5 year budget.

6 For the 2006-2007 school year and each school year thereafter,  
7 each district board of education shall submit a proposed budget in  
8 which the advertised per pupil administrative costs do not exceed  
9 the lower of the following:

10 (1) the district's prior year per pupil administrative costs; except  
11 that the district may submit a request to the commissioner for  
12 approval to exceed the district's prior year per pupil administrative  
13 costs due to increases in enrollment, administrative positions  
14 necessary as a result of mandated programs, administrative  
15 vacancies, nondiscretionary fixed costs, and such other items as  
16 defined in accordance with regulations adopted pursuant to section  
17 7 of P.L.2004, c.73. In the event that the commissioner approves a  
18 district's request to exceed its prior year per pupil administrative  
19 costs, the increase authorized by the commissioner shall not exceed  
20 the cost of living or 2.5 percent, whichever is greater; or

21 (2) the prior year per pupil administrative cost limits for the  
22 district's region inflated by the cost of living or 2.5 percent,  
23 whichever is greater.

24 d. (1) A district shall submit, as appropriate, to the board of  
25 school estimate or to the voters of the district at the annual school  
26 budget election conducted pursuant to the provisions of P.L.1995,  
27 c.278 (C.19:60-1 et al.), a general fund tax levy which [when added  
28 to the other components of its net budget] does not exceed the  
29 [prebudget year net budget by more than the spending growth  
30 limitation calculated as follows: the sum of the cost of living or 2.5  
31 percent, whichever is greater, multiplied by the prebudget year net  
32 budget, and adjustments for changes in enrollment, certain capital  
33 outlay expenditures, expenditures for pupil transportation services  
34 provided pursuant to N.J.S.18A:39-1.1, expenditures incurred in  
35 connection with the opening of a new school facility during the  
36 budget year, and special education costs per pupil in excess of  
37 \$40,000. The adjustment for special education costs shall equal any  
38 increase in the sum of per pupil amounts in excess of \$40,000 for  
39 the budget year less the sum of per pupil amounts in excess of  
40 \$40,000 for the prebudget year indexed by the cost of living or 2.5  
41 percent, whichever is greater. The adjustment for enrollments shall  
42 equal the increase in weighted resident enrollments between the  
43 prebudget year and budget year multiplied by the per pupil general  
44 fund tax levy amount for the prebudget year indexed by the cost of  
45 living or 2.5 percent, whichever is greater. The adjustment for  
46 capital outlay shall equal any increase between the capital outlay  
47 portion of the general fund budget for the budget year less any  
48 withdrawals from the capital reserve account and the capital outlay

1 portion of the general fund budget for the prebudget year indexed  
2 by the cost of living or 2.5 percent, whichever is greater. Any  
3 district with a capital outlay adjustment to its spending growth  
4 limitation shall be restricted from transferring any funds from  
5 capital outlay accounts to current expense accounts. The  
6 adjustment for capital outlay shall not become part of the prebudget  
7 year net budget for purposes of calculating the spending growth  
8 limitation of the subsequent year. The adjustment for pupil  
9 transportation costs provided pursuant to N.J.S.18A:39-1.1 shall  
10 equal any increase between the cost of providing such pupil  
11 transportation services for the budget year and the cost of providing  
12 such pupil transportation services for the prebudget year indexed by  
13 the cost of living or 2.5 percent, whichever is greater. The  
14 adjustment for the opening of a new school facility shall include  
15 costs associated with the new facility related to new teaching staff  
16 members, support staff, materials and equipment, custodial and  
17 maintenance expenditures, and such other required costs as  
18 determined by the commissioner] district's adjusted tax levy as  
19 calculated pursuant to sections 3 and 4 of P.L.2007, c.62  
20 (C.18A:7F-38 and 18A:7F-39).

21 (2) (Deleted by amendment, P.L.2007, c.260).

22 (3) (Deleted by amendment, P.L.2007, c.260).

23 (4) Any debt service payment made by a school district during  
24 the budget year shall not be included in the calculation of the  
25 district's [spending growth limitation] adjusted tax levy.

26 (5) (Deleted by amendment, P.L.2007, c.260).

27 (6) (Deleted by amendment, P.L.2007, c.260).

28 (7) (Deleted by amendment, P.L.2004, c.73).

29 (8) [If an increase in tuition for the budget year charged to a  
30 sending district by the receiving district pursuant to the provisions  
31 of N.J.S.18A:38-19 would reduce the sending district's per pupil net  
32 budget amount below the prior year's per pupil net budget amount  
33 in order to comply with the district's spending growth limitation, the  
34 district may apply to the commissioner for an adjustment to that  
35 limitation.] (Deleted by amendment, P.L. , c. ) (pending before  
36 the Legislature as this bill)

37 (9) [Any district may submit at the annual school budget  
38 election a separate proposal or proposals for additional funds,  
39 including interpretive statements, specifically identifying the  
40 program purposes for which the proposed funds shall be used, to the  
41 voters, who may, by voter approval, authorize the raising of an  
42 additional general fund tax levy for such purposes. In the case of a  
43 district with a board of school estimate, one proposal for the  
44 additional spending shall be submitted to the board of school  
45 estimate. Any proposal or proposals submitted to the voters or the  
46 board of school estimate shall not: include any programs and  
47 services that were included in the district's prebudget year net

1 budget unless the proposal is approved by the commissioner upon  
2 submission by the district of sufficient reason for an exemption to  
3 this requirement; or include any new programs and services  
4 necessary for students to achieve the thoroughness standards  
5 established pursuant to subsection a. of section 4 of P.L.2007, c.260  
6 (C.18A:7F-46).

7 The executive county superintendent of schools may prohibit the  
8 submission of a separate proposal or proposals to the voters or  
9 board of school estimate if he determines that the district has not  
10 implemented all potential efficiencies in the administrative  
11 operations of the district, which efficiencies would eliminate the  
12 need for the raising of additional general fund tax levy.

13 Except as otherwise provided pursuant to paragraph (3) of  
14 subsection c. of section 4 of P.L.2007, c.62 (C.18A:7F-39), any  
15 proposal or proposals rejected by the voters shall be submitted to  
16 the municipal governing body or bodies for a determination as to  
17 the amount, if any, that should be expended notwithstanding voter  
18 rejection. The decision of the municipal governing body or bodies  
19 or board of school estimate, as appropriate, shall be final and no  
20 appeals shall be made to the commissioner. ~~[(Deleted by~~  
21 ~~amendment, P.L. , c. ) (pending before the Legislature as this~~  
22 ~~bill)]~~ Any district may submit at the annual school budget election,  
23 in accordance with subsection c. of section 4 of P.L.2007, c.62  
24 (C.18A:7F-39), a separate proposal or proposals for additional  
25 funds, including interpretive statements, specifically identifying the  
26 program purposes for which the proposed funds shall be used, to the  
27 voters, who may, by voter approval, authorize the raising of an  
28 additional general fund tax levy for such purposes. In the case of a  
29 district with a board of school estimate, one proposal for the  
30 additional spending shall be submitted to the board of school  
31 estimate. Any proposal or proposals submitted to the voters or the  
32 board of school estimate shall not: include any programs and  
33 services that were included in the district's prebudget year net  
34 budget unless the proposal is approved by the commissioner upon  
35 submission by the district of sufficient reason for an exemption to  
36 this requirement; or include any new programs and services  
37 necessary for students to achieve the thoroughness standards  
38 established pursuant to subsection a. of section 4 of P.L.2007, c.260  
39 (C.18A:7F-46).

40 The executive county superintendent of schools may prohibit the  
41 submission of a separate proposal or proposals to the voters or  
42 board of school estimate if he determines that the district has not  
43 implemented all potential efficiencies in the administrative  
44 operations of the district, which efficiencies would eliminate the  
45 need for the raising of additional general fund tax levy.<sup>1</sup>

46 (10) Notwithstanding any provision of law to the contrary, if a  
47 district proposes a budget with a general fund tax levy and  
48 equalization aid which exceed the adequacy budget, the following

1 statement shall be published in the legal notice of public hearing on  
2 the budget pursuant to N.J.S.18A:22-28, posted at the public  
3 hearing held on the budget pursuant to N.J.S.18A:22-29, and  
4 printed on the sample ballot required pursuant to section 10 of  
5 P.L.1995, c.278 (C.19:60-10):

6 "Your school district has proposed programs and services in  
7 addition to the core curriculum content standards adopted by the  
8 State Board of Education. Information on this budget and the  
9 programs and services it provides is available from your local  
10 school district."

11 (11) Any reduction that may be required to be made to programs  
12 and services included in a district's prebudget year net budget in  
13 order for the district to limit the growth in its budget between the  
14 prebudget and budget years by its **【spending】 tax levy** growth  
15 limitation as calculated pursuant to **【this subsection】 sections 3 and**  
16 **4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39)**, shall only  
17 include reductions to excessive administration or programs and  
18 services that are inefficient or ineffective.

19 e. (1) Any general fund tax levy rejected by the voters for a  
20 proposed budget that includes a general fund tax levy and  
21 equalization aid in excess of the adequacy budget shall be submitted  
22 to the governing body of each of the municipalities included within  
23 the district for determination of the amount that should be expended  
24 notwithstanding voter rejection. In the case of a district having a  
25 board of school estimate, the general fund tax levy shall be  
26 submitted to the board for determination of the amount that should  
27 be expended. If the governing body or bodies or board of school  
28 estimate, as appropriate, reduce the district's proposed budget, the  
29 district may appeal any of the reductions to the commissioner on the  
30 grounds that the reductions will negatively impact on the stability of  
31 the district given the need for long term planning and budgeting. In  
32 considering the appeal, the commissioner shall consider enrollment  
33 increases or decreases within the district; the history of voter  
34 approval or rejection of district budgets; the impact on the local  
35 levy; and whether the reductions will impact on the ability of the  
36 district to fulfill its contractual obligations. A district may not  
37 appeal any reductions on the grounds that the amount is necessary  
38 for a thorough and efficient education.

39 (2) Any general fund tax levy rejected by the voters for a  
40 proposed budget that includes a general fund tax levy and  
41 equalization aid at or below the adequacy budget shall be submitted  
42 to the governing body of each of the municipalities included within  
43 the district for determination of the amount that should be expended  
44 notwithstanding voter rejection. In the case of a district having a  
45 board of school estimate, the general fund tax levy shall be  
46 submitted to the board for determination. Any reductions may be  
47 appealed to the commissioner on the grounds that the amount is  
48 necessary for a thorough and efficient education or that the

1 reductions will negatively impact on the stability of the district  
2 given the need for long term planning and budgeting. In  
3 considering the appeal, the commissioner shall also consider the  
4 factors outlined in paragraph (1) of this subsection.

5 In addition, the municipal governing body or board of school  
6 estimate shall be required to demonstrate clearly to the  
7 commissioner that the proposed budget reductions shall not  
8 adversely affect the ability of the school district to provide a  
9 thorough and efficient education or the stability of the district given  
10 the need for long term planning and budgeting.

11 (3) In lieu of any budget reduction appeal provided for pursuant  
12 to paragraphs (1) and (2) of this subsection, the State board may  
13 establish pursuant to the "Administrative Procedure Act," P.L.1968,  
14 c.410 (C.52:14B-1 et seq.), an expedited budget review process  
15 based on a district's application to the commissioner for an order to  
16 restore a budget reduction.

17 (4) When the voters, municipal governing body or bodies, or the  
18 board of school estimate authorize the general fund tax levy, the  
19 district shall submit the resulting budget to the commissioner within  
20 15 days of the action of the voters or municipal governing body or  
21 bodies, whichever is later, or of the board of school estimate as the  
22 case may be.

23 f. (Deleted by amendment, P.L.2007, c.260).

24 g. (Deleted by amendment, P.L.2007, c.260).

25 (cf: P.L.2007, c.260, s.28)

26

27 <sup>1</sup>~~4.~~ 3.<sup>1</sup> Section 4 of P.L.1998, c.55 (C.18A:7F-5.2) is amended  
28 to read as follows:

29 4. a. Proceeds from the sale and lease-back of textbooks and  
30 non-consumable instructional materials shall not be considered  
31 miscellaneous local general fund revenue for the purpose of  
32 calculating the net budget ~~or the spending growth limitation under~~  
33 P.L.1996, c.138 (C.18A:7F-1 et seq.)].

34 b. A board of education may establish a reserve account in the  
35 general fund with all or a part of the proceeds from the sale and  
36 lease-back of textbooks and non-consumable instructional materials  
37 provided that subsequent appropriations from the reserve account  
38 shall only be made within the original budget certified for taxes or  
39 as approved by the commissioner for good cause.

40 (cf: P.L.1998, c.55, s.4)

41

42 <sup>1</sup>~~5.~~ 4.<sup>1</sup> Section 3 of P.L.2007, c.62 (C.18A:7F-38) is amended  
43 to read as follows:

44 3. a. <sup>1</sup>~~[(1)]~~ Notwithstanding the provisions of any other law to  
45 the contrary, a school district shall not adopt a budget pursuant to  
46 sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6)  
47 with an increase in its adjusted tax levy that exceeds, except as

1 provided in subsection e. of section 4 of P.L.2007, c.62 (C.18A:7F-  
2 39). the tax levy growth limitation calculated as follows: the sum of  
3 the prebudget year adjusted tax levy and the adjustment for  
4 increases in enrollment multiplied by **four** <sup>1</sup>~~2.9~~ 2.0 percent,  
5 and adjustments for <sup>1</sup>~~["a reduction in total unrestricted State aid~~  
6 ~~from the prebudget year,]"~~ an increase in health care costs,  
7 <sup>1</sup>~~["beginning in the 2008-2009 school year, amounts approved by a~~  
8 ~~waiver granted by the commissioner pursuant to section 4 of~~  
9 ~~P.L.2007, c.62 (C.18A:7F-39), and, for the 2010-2011 school year,]"~~  
10 and<sup>1</sup> increases in amounts for certain normal and accrued liability  
11 pension contributions set forth in sections 1 and 2 of P.L.2009, c.19  
12 amending section 24 of P.L.1954, c.84 (C.43:15A-24) and section  
13 15 of P.L.1944, c.255 (C.43:16A-15) for the year set forth in those  
14 sections.

15 <sup>1</sup>~~["(2) Notwithstanding any provision of paragraph (1) of this~~  
16 ~~subsection to the contrary, beginning in the 2008-2009 school year~~  
17 ~~the tax levy growth limitation for a district which is spending above~~  
18 ~~adequacy as determined pursuant to subsection d. of section 5 of~~  
19 ~~P.L.2007, c.260 (C.18A:7F-47) and has a prebudget year general~~  
20 ~~fund tax levy greater than its local share as calculated pursuant to~~  
21 ~~section 10 of that act and which receives an increase in State aid~~  
22 ~~between the prebudget and budget years that is greater than 2% or~~  
23 ~~the CPI, whichever is greater, shall be reduced by the amount of the~~  
24 ~~State aid increase that exceeds 2% or the CPI, whichever is greater.~~  
25 ~~For the purposes of this paragraph, the CPI shall not exceed 4%.~~  
26 ~~The reduction shall be made following the calculation of any~~  
27 ~~adjustments for increases in enrollment, a reduction in total~~  
28 ~~unrestricted State aid, an increase in health care costs, and an~~  
29 ~~increase in the amount of the normal and accrued liability pension~~  
30 ~~contributions calculated pursuant to subsections b., c., and d. of this~~  
31 ~~section and prior to the request or approval of waivers pursuant to~~  
32 ~~section 4 of P.L.2007, c.62 (C.18A:7F-39). In the event that the~~  
33 ~~reduction would bring the district's spending below adequacy,~~  
34 ~~notwithstanding the requirements of this paragraph to the contrary~~  
35 ~~the amount of the reduction made to the district's tax levy growth~~  
36 ~~limitation shall not be greater than the amount that brings the~~  
37 ~~district's spending to adequacy.]"~~<sup>1</sup>

38 b. (1) The allowable adjustment for increases in enrollment  
39 authorized pursuant to subsection a. of this section shall equal the  
40 per pupil prebudget year adjusted tax levy multiplied by EP, where  
41 EP equals the sum of:

42 (a) 0.50 for each unit of weighted resident enrollment that  
43 constitutes an increase from the prebudget year over 1%, but not  
44 more than 2.5%;

45 (b) 0.75 for each unit of weighted resident enrollment that  
46 constitutes an increase from the prebudget year over 2.5%, but not  
47 more than 4%; and



1 (c) 1.00 for each unit of weighted resident enrollment that  
2 constitutes an increase from the prebudget year over 4%.

3 (2) A school district may request approval from the  
4 commissioner to calculate EP equal to 1.00 for any increase in  
5 weighted resident enrollment if it can demonstrate that the  
6 calculation pursuant to paragraph (1) of this subsection would result  
7 in an average class size that exceeds 10% above the facilities  
8 efficiency standards established pursuant to P.L.2000, c.72  
9 (C.18A:7G-1 et al.).

10 c. ~~['The allowable adjustment for a reduction in total~~  
11 ~~unrestricted State aid authorized pursuant to subsection a. of this~~  
12 ~~section shall equal any reduction in total unrestricted State aid from~~  
13 ~~the prebudget to the budget year.] (Deleted by amendment, P.L. ,~~  
14 ~~c. ) (pending before the Legislature as this bill)<sup>1</sup>~~

15 d. (1) The allowable adjustment for increases in health care  
16 costs authorized pursuant to subsection a. of this section shall equal  
17 that portion of the actual increase in total health care costs for the  
18 budget year, less any withdrawals from the current expense  
19 emergency reserve account for increases in total health care costs,  
20 that exceeds ~~four~~ ~~'[2.9] 2.0'~~ percent of the total health care costs  
21 in the prebudget year, but that is not in excess of the product of the  
22 total health care costs in the prebudget year multiplied by the  
23 average percentage increase of the State Health Benefits Program,  
24 P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually determined by  
25 the Division of Pensions and Benefits in the Department of the  
26 Treasury.

27 (2) The allowable adjustment for increases in the amount of  
28 normal and accrued liability pension contributions authorized  
29 pursuant to subsection a. of this section shall equal that portion of  
30 the actual increase in total normal and accrued liability pension  
31 contributions for the budget year that exceeds ~~four~~ ~~'[2.9] 2.0'~~  
32 percent of the total normal and accrued liability pension  
33 contributions in the prebudget year.

34 e. ~~['In addition to the adjustments authorized pursuant to~~  
35 ~~subsection a. of this section, for the purpose of determining a school~~  
36 ~~district's allowable tax levy growth limitation for the 2007-2008~~  
37 ~~school year, a school district may apply to the commissioner for an~~  
38 ~~adjustment for increases in special education costs over \$40,000 per~~  
39 ~~pupil, increases in tuition, capital outlay increases, and incremental~~  
40 ~~increases in costs for opening a new school facility in the budget~~  
41 ~~year.~~

42 (1) The allowable adjustment for increases in special education  
43 costs over \$40,000 per pupil shall equal any increase in the sum of  
44 per pupil amounts in excess of \$40,000 for the budget year less the  
45 sum of per pupil amounts in excess of \$40,000 for the prebudget  
46 year indexed by four percent.

1 (2) The allowable adjustment for increases in tuition shall equal  
2 any increase in the tuition for the budget year charged to a sending  
3 district by the receiving district pursuant to the provisions of  
4 N.J.S.18A:38-19 or charged by a county vocational school district  
5 pursuant to the provisions of section 71 of P.L.1990, c.52  
6 (C.18A:54-20.1) less 104 percent of the tuition for the prebudget  
7 year charged to a sending district by the receiving district pursuant  
8 to the provisions of N.J.S.18A:38-19 or charged by a county  
9 vocational school district pursuant to the provisions of section 71 of  
10 P.L.1990, c.52 (C.18A:54-20.1).

11 (3) The allowable adjustment for increases in capital outlay  
12 shall equal any increase in capital outlay, less any withdrawals from  
13 the capital reserve account, over the prebudget year in excess of  
14 four percent. ~~](Deleted by amendment, P.L. , c. ) (pending before~~  
15 ~~the Legislature as this bill)]<sup>1</sup>~~

16 f. The adjusted tax levy shall be increased or decreased  
17 accordingly whenever the responsibility and associated cost of a  
18 school district activity is transferred to another school district or  
19 governmental entity.

20 (cf: P.L.2009, c.19, s.3)

21

22 ~~‘[6.] 5.’~~ Section 4 of P.L.2007, c.62 (C.18A:7F-39) is amended  
23 to read as follows:

24 4. a. ~~‘[(1) Beginning in the 2008-2009 school year, a school~~  
25 ~~district may request approval from the commissioner for a waiver to~~  
26 ~~increase its adjusted tax levy by more than the allowable amount~~  
27 ~~authorized in section 3 of P.L.2007, c.62 (C.18A:7F-38) to address~~  
28 ~~extraordinary costs which may include, but not be limited to:~~

29 (a) ~~a district's failure to meet the core curriculum content~~  
30 ~~standards as determined through the New Jersey Quality Single~~  
31 ~~Accountability Continuum. Prior to full implementation of~~  
32 ~~NJQSAC, such determination shall be based on a school district's~~  
33 ~~status under the "No Child Left Behind Act of 2001," Pub.L. 107-~~  
34 ~~110. The commissioner shall approve the increase only if the~~  
35 ~~district satisfactorily demonstrates that the increase will be used to~~  
36 ~~implement or expand programs or services to address the causes of~~  
37 ~~the district's failure to meet the core curriculum content standards or~~  
38 ~~other performance indicators as determined through NJQSAC ];~~

39 (b) energy cost increases over the prebudget year in excess of  
40 four percent;

41 (c) capital outlay increases, less any withdrawals from the  
42 capital reserve account, over the prebudget year in excess of four  
43 percent;

44 (d) the appropriation of non-recurring general fund revenues in  
45 the prebudget year original budget, including the appropriation of  
46 surplus;

- 1 (e) increases in insurance costs over the prebudget year in  
2 excess of four percent;
- 3 (f) increases in transportation costs required to service  
4 hazardous routes over the prebudget year in excess of four percent;
- 5 (g) increases in special education costs that exceed \$40,000 per  
6 each special education pupil over the prebudget year in excess of  
7 four percent;
- 8 (h) increases in tuition costs charged to a sending district by the  
9 receiving district pursuant to the provisions of N.J.S.18A:38-19  
10 over the prebudget year in excess of four percent or charged by a  
11 county vocational school district pursuant to the provisions of  
12 section 71 of P.L.1990, c.52 (C.18A:54-20.1) over the prebudget  
13 year in excess of four percent; and
- 14 (i) incremental increases in costs associated with opening a new  
15 school facility in the budget year】.
- 16 (2) A waiver request shall be submitted at least five working  
17 days prior to the required budget submission dates established  
18 pursuant to sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and  
19 18A:7F-6) in a form required by the commissioner, as appropriate,  
20 and shall include such information and documentation as the  
21 commissioner deems necessary.
- 22 (3) In considering a waiver request, in addition to the authority  
23 granted to the commissioner pursuant to section 6 of P.L.1996,  
24 c.138 (C.18A:7F-6), the commissioner shall have the power to  
25 make budgetary reallocations up to the total amount of the waiver  
26 request. The commissioner shall not reduce or reallocate any line  
27 item accounts that will impact the district's ability to meet the core  
28 curriculum content standards and provide a thorough and efficient  
29 education.
- 30 (4) A waiver approval shall specify whether the adjusted tax  
31 levy increase shall be limited to the budget year or added to the  
32 adjusted tax levy as a permanent increase.
- 33 (5) Any decision of the commissioner as to the entitlement of  
34 any school district to an increase of its adjusted tax levy pursuant to  
35 this section shall be final and conclusive, and no appeal or review  
36 shall be taken therefrom 【; except that the matter may be put before  
37 the voters pursuant to subsection c. of this section】.】 (Deleted by  
38 amendment, P.L. , c. ) (pending before the Legislature as this  
39 bill)<sup>1</sup>
- 40 b. <sup>1</sup>【(1) The commissioner may direct a school district to  
41 increase specific line item expenditure accounts, for specific  
42 purposes, to address low achievement or the causes of the district's  
43 failure to meet the core curriculum content standards as determined  
44 through NJQSAC, or prior to full implementation of NJQSAC, as  
45 determined based on a school district's status under the "No Child  
46 Left Behind Act of 2001," Pub.L.107-110.

1 (2) The commissioner is authorized to approve a school district  
2 budget with an increase in its adjusted tax levy by more than the  
3 allowable amount authorized pursuant to section 3 of P.L.2007, c.62  
4 (C.18A:7F-38), up to the amount required to support the increase in  
5 expenditure accounts as directed in paragraph (1) of this  
6 subsection. ] (Deleted by amendment, P.L. , c. ) (pending before  
7 the Legislature as this bill)<sup>1</sup>

8 c. [For the 2007-2008 school year, or for the 2008-2009  
9 through 2011-2012 school years if a waiver requested pursuant to  
10 subsection a. of this section fails to be approved by the  
11 commissioner or if the school district elects not to request a waiver,  
12 the school district may submit to the voters at the April school  
13 election, or on such other date as is set by regulation of the  
14 commissioner, a proposal or proposals to increase the tax levy by  
15 more than the allowable amount authorized pursuant to section 3 of  
16 P.L.2007, c.62 (C.18A:7F-38). The proposal or proposals to  
17 increase the tax levy shall be approved if a majority of people  
18 voting at the April 2007 school election vote in the affirmative, or if  
19 60 percent of the people voting at the April 2008 through April  
20 2011 school elections vote in the affirmative. In the case of a  
21 school district with a board of school estimate, the additional tax  
22 levy shall be authorized only if a quorum is present for the vote and  
23 a majority of those board members who are present vote in the  
24 affirmative to authorize the additional tax levy.

25 (1) A proposal or proposals submitted to the voters or the board  
26 of school estimate to increase the tax levy pursuant to this  
27 subsection shall not include any programs or services necessary for  
28 students to achieve the core curriculum content standards.

29 (2) All proposals to increase the tax levy submitted pursuant to  
30 this subsection shall include interpretive statements specifically  
31 identifying the program purposes for which the proposed funds  
32 shall be used and a clear statement on whether approval will affect  
33 only the current year or result in a permanent increase in the levy.  
34 The proposals shall be submitted and approved pursuant to sections  
35 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6).

36 (3) For only the 2007-2008 school budget year, any proposal or  
37 proposals rejected by the voters shall be submitted to the municipal  
38 governing body or bodies for a determination as to the amount, if  
39 any, that should be expended notwithstanding voter rejection. The  
40 decision of the municipal governing body or bodies or board of  
41 school estimate, as appropriate, shall be final and no appeals shall  
42 be made to the commissioner. ] <sup>1</sup>[(Deleted by amendment, P.L. ,  
43 c. ) (pending before the Legislature as this bill)] A school district  
44 may submit to the voters at the April school election, or on such  
45 other date as is set by regulation of the commissioner, a proposal or  
46 proposals to increase the adjusted tax levy by more than the  
47 allowable amount authorized pursuant to section 3 of P.L.2007, c.62

1 (C.18A:7F-38). The proposal or proposals to increase the adjusted  
2 tax levy shall be approved if a majority of people voting shall vote  
3 in the affirmative. In the case of a school district with a board of  
4 school estimate, the additional adjusted tax levy shall be authorized  
5 only if a quorum is present for the vote and a majority of those  
6 board members who are present vote in the affirmative to authorize  
7 the additional adjusted tax levy.

8 (1) A proposal or proposals submitted to the voters or the board  
9 of school estimate to increase the tax levy pursuant to this  
10 subsection shall not include any programs or services necessary for  
11 students to achieve the core curriculum content standards.

12 (2) All proposals to increase the tax levy submitted pursuant to  
13 this subsection shall include interpretive statements specifically  
14 identifying the program purposes for which the proposed funds  
15 shall be used and a clear statement on whether approval will affect  
16 only the current year or result in a permanent increase in the levy.  
17 The proposals shall be submitted and approved pursuant to sections  
18 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6).<sup>1</sup>

19 d. <sup>1</sup>["The commissioner shall have the authority to grant  
20 additional waivers, applicable to all or some school districts, as  
21 determined by the commissioner, and only effective for the school  
22 budget year in which the waiver is granted, upon a finding of  
23 extraordinary circumstances that result in an unanticipated increase  
24 in expenditures for a service essential to the health, safety and  
25 welfare of the school children of the State.] (Deleted by  
26 amendment, P.L. , c. ) (pending before the Legislature as this  
27 bill)<sup>1</sup>

28 e. A school district that has not been granted approval <sup>1</sup>["for a  
29 waiver pursuant to this section] to exceed the cap pursuant to  
30 subsection c. of this section<sup>1</sup>, may add to its adjusted tax levy in any  
31 one of the next three succeeding budget years, the amount of the  
32 difference between the maximum allowable amount to be raised by  
33 taxation for the current school budget year and the actual amount to  
34 be raised by taxation for the current school budget year.

35 (cf: P.L.2007, c.62, s.4)

36  
37 <sup>1</sup>[7.] 6.<sup>1</sup> Section 3 of P.L.2007, c.260 (C.18A:7F-45) is amended  
38 to read as follows:

39 3. As used in this act and P.L.1996, c.138, unless the context  
40 clearly requires a different meaning:

41 "At-risk pupils" means those resident pupils from households  
42 with a household income at or below the most recent federal  
43 poverty guidelines available on October 15 of the prebudget year  
44 multiplied by 1.85;

45 "Base per pupil amount" means the cost per elementary pupil of  
46 delivering the core curriculum content standards and extracurricular

1 and cocurricular activities necessary for a thorough and efficient  
2 education;

3 "Bilingual education pupil" means a resident pupil enrolled in a  
4 program of bilingual education or in an English as a second  
5 language program approved by the State Board of Education;

6 "Budgeted local share" means the district's local tax levy  
7 contained in the budget certified for taxation purposes;

8 "Capital outlay" means capital outlay as defined in GAAP;

9 "Combination pupil" means a resident pupil who is both an at-  
10 risk pupil and a bilingual education pupil;

11 "Commissioner" means the Commissioner of Education;

12 "Concentration of at-risk pupils" shall be based on prebudget  
13 year pupil data and means, for a school district or a county  
14 vocational school district, the number of at-risk pupils among those  
15 counted in resident enrollment, divided by resident enrollment;

16 "County special services school district" means any entity  
17 established pursuant to article 8 of chapter 46 of Title 18A of the  
18 New Jersey Statutes;

19 "County vocational school district" means any entity established  
20 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey  
21 Statutes;

22 "CPI" means the increase, expressed as a decimal, in the average  
23 annualized consumer price index for the New York City and  
24 Philadelphia areas in the fiscal year preceding the prebudget year  
25 relative to the previous fiscal year as reported by the United States  
26 Department of Labor;

27 "Debt service" means payments of principal and interest upon  
28 school bonds and other obligations issued to finance the purchase or  
29 construction of school facilities, additions to school facilities, or the  
30 reconstruction, remodeling, alteration, modernization, renovation or  
31 repair of school facilities, including furnishings, equipment,  
32 architect fees, and the costs of issuance of such obligations and  
33 shall include payments of principal and interest upon bonds  
34 heretofore issued to fund or refund such obligations, and upon  
35 municipal bonds and other obligations which the commissioner  
36 approves as having been issued for such purposes;

37 "District income" means the aggregate income of the residents of  
38 the taxing district or taxing districts, based upon data provided by  
39 the Division of Taxation in the New Jersey Department of the  
40 Treasury and contained on the New Jersey State Income Tax forms  
41 for the calendar year ending two years prior to the prebudget year.  
42 The commissioner may supplement data contained on the State  
43 Income Tax forms with data available from other State or federal  
44 agencies in order to better correlate the data to that collected on the  
45 federal census. With respect to regional districts and their  
46 constituent districts, however, the district income as described  
47 above shall be allocated among the regional and constituent districts  
48 in proportion to the number of pupils resident in each of them;

1 "Equalized valuation" means the equalized valuation of the  
2 taxing district or taxing districts, as certified by the Director of the  
3 Division of Taxation on October 1, or subsequently revised by the  
4 tax court by January 15, of the prebudget year. With respect to  
5 regional districts and their constituent districts, however, the  
6 equalized valuations as described above shall be allocated among  
7 the regional and constituent districts in proportion to the number of  
8 pupils resident in each of them. In the event that the equalized table  
9 certified by the director shall be revised by the tax court after  
10 January 15 of the prebudget year, the revised valuations shall be  
11 used in the recomputation of aid for an individual school district  
12 filing an appeal, but shall have no effect upon the calculation of the  
13 property value rate, Statewide average equalized school tax rate, or  
14 Statewide equalized total tax rate;

15 "Full-day preschool" means a preschool day consisting of a six-  
16 hour comprehensive educational program in accordance with the  
17 district's kindergarten through grade 12 school calendar;

18 "GAAP" means the generally accepted accounting principles  
19 established by the Governmental Accounting Standards Board as  
20 prescribed by the State board pursuant to N.J.S.18A:4-14;

21 "General special education services pupil" means a pupil  
22 receiving specific services pursuant to chapter 46 of Title 18A of  
23 the New Jersey Statutes;

24 "Geographic cost adjustment" means an adjustment that reflects  
25 county differences in the cost of providing educational services that  
26 are outside the control of the district;

27 "Household income" means income as defined in 7 CFRss.245.2  
28 and 245.6 or any subsequent superseding federal law or regulation;

29 "Net budget" means the sum of the district's general fund tax  
30 levy, State aid received pursuant to the provisions of this act other  
31 than preschool education aid, miscellaneous revenue estimated  
32 pursuant to GAAP, and designated general fund balance;

33 "Prebudget year" means the school fiscal year preceding the year  
34 in which the school budget is implemented;

35 "Nonpreschool ECPA" means the amount of early childhood  
36 program aid, excluding prior year carry-forward amounts, included  
37 in a district's 2007-2008 school year budget certified for taxes that  
38 was allocated to grades K through 3;

39 "Report" means the Educational Adequacy Report issued by the  
40 commissioner pursuant to section 4 of this act;

41 "Resident enrollment" means the number of pupils other than  
42 preschool pupils, post-graduate pupils, and post-secondary  
43 vocational pupils who, on the last school day prior to October 16 of  
44 the current school year, are residents of the district and are enrolled  
45 in: (1) the public schools of the district, excluding evening schools,  
46 (2) another school district, other than a county vocational school  
47 district in the same county on a full-time basis, or a State college  
48 demonstration school or private school to which the district of

1 residence pays tuition, or (3) a State facility in which they are  
2 placed by the district; or are residents of the district and are: (1)  
3 receiving home instruction, or (2) in a shared-time vocational  
4 program and are regularly attending a school in the district and a  
5 county vocational school district. In addition, resident enrollment  
6 shall include the number of pupils who, on the last school day prior  
7 to October 16 of the prebudget year, are residents of the district and  
8 in a State facility in which they were placed by the State. Pupils in  
9 a shared-time vocational program shall be counted on an equated  
10 full-time basis in accordance with procedures to be established by  
11 the commissioner. Resident enrollment shall include regardless of  
12 nonresidence, the enrolled children of teaching staff members of the  
13 school district or county vocational school district who are  
14 permitted, by contract or local district policy, to enroll their  
15 children in the educational program of the school district or county  
16 vocational school district without payment of tuition. Disabled  
17 children between three and five years of age and receiving programs  
18 and services pursuant to N.J.S.18A:46-6 shall be included in the  
19 resident enrollment of the district;

20 "School district" means any local or regional school district  
21 established pursuant to chapter 8 or chapter 13 of Title 18A of the  
22 New Jersey Statutes;

23 ["Spending growth limitation" means the annual rate of growth  
24 permitted in the net budget of a school district, county vocational  
25 school district, or county special services school district as  
26 measured between the net budget of the prebudget year and the net  
27 budget of the budget year as calculated pursuant to the provisions of  
28 section 5 of P.L.1996, c.138 (C.18A:7F-5);]

29 "State facility" means a State developmental center, a State  
30 Division of Youth and Family Services' residential center, a State  
31 residential mental health center, a Department of Children and  
32 Families Regional Day School, a State training school/secure care  
33 facility, a State juvenile community program, a juvenile detention  
34 center or a boot camp under the supervisory authority of the  
35 Juvenile Justice Commission pursuant to P.L.1995, c.284  
36 (C.52:17B-169 et seq.), or an institution operated by or under  
37 contract with the Department of Corrections, Children and Families  
38 or Human Services, or the Juvenile Justice Commission;

39 "Statewide equalized school tax rate" means the amount  
40 calculated by dividing the general fund tax levy for all school  
41 districts, which excludes county vocational school districts and  
42 county special services school districts as defined pursuant to this  
43 section, in the State for the prebudget year by the equalized  
44 valuations certified in the year prior to the prebudget year of all  
45 taxing districts in the State except taxing districts for which there  
46 are not school tax levies;

47 "Tax levy growth limitation" means the permitted annual  
48 increase in the adjusted tax levy for a school district as calculated



1 pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and  
2 18A:7F-39).

3 (cf: P.L.2007, c.260, s.3)

4

5 **'[8.] 7.'** N.J.S.18A:20-4.2 is amended to read as follows:

6 18A:20-4.2. The board of education of any school district may,  
7 for school purposes:

8 (a) Purchase, take and condemn lands within the district and  
9 lands not exceeding 50 acres in extent without the district but  
10 situate in a municipality or municipalities adjoining the district, but  
11 no more than 25 acres may be so acquired in any one such  
12 municipality, without the district, except with the consent, by  
13 ordinance, of such municipality;

14 (b) Grade, drain and landscape lands owned or to be acquired by  
15 it and improve the same in like manner;

16 (c) Erect, lease for a term not exceeding 50 years, enlarge,  
17 improve, repair or furnish buildings;

18 (d) Borrow money therefor, with or without mortgage; in the  
19 case of a type II district without a board of school estimate, when  
20 authorized so to do at any annual or special school election; and in  
21 the case of a type II district having a board of school estimate, when  
22 the amount necessary to be provided therefor shall have been fixed,  
23 determined and certified by the board of school estimate; and in the  
24 case of a type I district, when an ordinance authorizing expenditures  
25 for such purpose is finally adopted by the governing body of a  
26 municipality comprised within the district; provided, however, that  
27 no such election shall be held nor shall any such resolution of a  
28 school estimate board or ordinance of a municipal governing body  
29 be introduced to authorize any lease of any building for a term  
30 exceeding one year, until the proposed terms of such lease have  
31 been reviewed and approved by the Commissioner of Education and  
32 the Local Finance Board in the Department of Community Affairs;

33 (e) Construct, purchase, lease or otherwise acquire a building  
34 with the federal government, the State, a political subdivision  
35 thereof or any other individual or entity properly authorized to do  
36 business in the State; provided that: (1) the noneducational uses of  
37 the building are compatible with the establishment and operation of  
38 a school, as determined by the Commissioner of Education; (2) the  
39 portion of the building to be used as a school meets regulations of  
40 the Department of Education; (3) the board of education has  
41 complied with the provisions of law and regulations relating to the  
42 selection and approval of sites; and (4) in the case of a lease, that  
43 any lease in excess of five years shall be approved by the  
44 Commissioner of Education and the Local Finance Board in the  
45 Department of Community Affairs;

46 (f) Acquire, with the approval of either the commissioner, or  
47 voters or board of school estimate, as applicable, improvements or  
48 additions to school buildings through lease purchase agreements not

1 in excess of five years. The agreement shall be recorded as an  
2 expenditure of the General Fund of the district. The commissioner  
3 shall approve the agreement only upon a demonstration by the  
4 district that the lease purchase payments and any operating  
5 expenses related to the agreement can be included within the  
6 district's [net budget spending growth limitation and will not result  
7 in the need for approval by the voters or board of school estimate,  
8 as appropriate, of additional spending proposals to maintain  
9 existing instructional programs and extracurricular activities] tax  
10 levy growth limitation <sup>1</sup>and will not result in the need for approval  
11 by the voters or board of school estimate, as appropriate, of  
12 additional spending proposals to maintain existing instructional  
13 programs and extracurricular activities<sup>1</sup>. If the commissioner  
14 cannot approve the agreement, the board of education may frame a  
15 separate question to authorize the lease purchase agreement and  
16 obtain voter or board of school estimate approval to enter into the  
17 agreement. A district may, without separate prior approval of the  
18 commissioner, also acquire equipment through a lease purchase  
19 agreement not in excess of five years or in the case of a lease  
20 purchase agreement entered into for the acquisition of school buses  
21 not in excess of 10 years, provided that the amount of the first  
22 installment and each subsequent installment for the lease purchase  
23 payments is included in the budget that is advertised and submitted  
24 for approval to the voters of the district or the board of school  
25 estimate, as appropriate. As used herein, a "lease purchase  
26 agreement" refers to any agreement which gives the board of  
27 education as lessee the option of purchasing the leased equipment  
28 or improvements or additions to existing school buildings during or  
29 upon termination of the lease, with credit toward the purchase price  
30 of all or part of rental payments which have been made by the board  
31 of education in accordance with the lease. As part of such a  
32 transaction, the board of education may transfer or lease land or  
33 rights in land, including any building thereon, after publicly  
34 advertising for proposals for the transfer for nominal or fair market  
35 value, to the party selected by the board of education, by  
36 negotiation or otherwise, after determining that the proposal is in  
37 the best interest of the taxpayers of the district, to construct or to  
38 improve and to lease or to own or to have ownership interests in the  
39 site and the school building to be leased pursuant to such lease  
40 purchase agreement, notwithstanding the provisions of any other  
41 law to the contrary. The land and any building thereon which is  
42 described in a lease purchase agreement entered into pursuant to  
43 this amendatory act, shall be deemed to be and treated as property  
44 of the school district, used for school purposes pursuant to  
45 R.S.54:4-3.3, and shall not be considered or treated as property  
46 leased to another whose property is not exempt, and shall not be  
47 assessed as real estate pursuant to section 1 of P.L.1949, c.177  
48 (C.54:4-2.3). Any lease purchase agreement authorized by this

1 section shall contain a provision making payments thereunder  
2 subject to the annual appropriation of funds sufficient to meet the  
3 required payments or shall contain an annual cancellation clause  
4 and shall require all construction contracts let by public school  
5 districts or let by developers or owners of property used for school  
6 purposes to be competitively bid, pursuant to N.J.S.18A:18A-1 et  
7 seq.;

8 (g) Establish with an individual or entity authorized to do  
9 business in the State a tenancy in common, condominium,  
10 horizontal property regime or other joint ownership arrangement on  
11 a site contributed by the school district; provided the following  
12 conditions are met:

13 (1) The individual or entity agrees to construct on the site, or  
14 provide for the construction thereon, a building or buildings for use  
15 of the board of education separately or jointly with the individual or  
16 entity, which shall be subject to the joint ownership arrangement;

17 (2) The provision of the building shall be at no cost or at a  
18 reduced cost to the board of education;

19 (3) The school district shall not make any payment for use of the  
20 building other than its pro rata share of costs of maintenance and  
21 improvements;

22 (4) The noneducational uses of the building are compatible with  
23 the establishment and operation of a school, as determined by the  
24 Commissioner of Education;

25 (5) The portion of the building to be used as a school, and the  
26 site, meet regulations of the Department of Education; and

27 (6) Any such agreement shall be approved by the Commissioner  
28 of Education and the Local Finance Board in the Department of  
29 Community Affairs;

30 (h) Acquire through sale and lease-back textbooks and non-  
31 consumable instructional materials provided that the sale price and  
32 principal amount of the lease-back do not exceed the fair market  
33 value of the textbooks and instructional materials and that the  
34 interest rate applied in the lease-back is consistent with prevailing  
35 market rates or is less.

36 (cf: P.L.2001, c.146, s.1)

37

38 **'[9.] 8.'** Section 9 of P.L.2007, c.62 (C.40A:4-45.44) is  
39 amended to read as follows:

40 9. For the purposes of sections 9 through 13 of P.L.2007, c.62  
41 (C.40A:4-45.44 through C.40A:4-45.47 and C.40A:4-45.3e):

42 "Adjusted tax levy" means an amount not greater than the  
43 amount to be raised by taxation of the previous fiscal year, less any  
44 waivers from a prior fiscal year required to be deducted by the  
45 Local Finance Board pursuant to section 11 of P.L.2007, c.62  
46 (C.40A:4-45.46), that result multiplied by **[1.04]** **'[1.029]** **1.02'**, to  
47 which the sum of exclusions defined in subsection b. of section 10  
48 of P.L.2007, c.62 (C.40A:4-45.45) shall be added.

1 "Amount to be raised by taxation" means the property tax levy  
2 set in the annual budget of a local unit.

3 "Local unit" means a municipality, county, fire district, or solid  
4 waste collection district, but shall not include a municipality that  
5 had a municipal purposes tax rate of \$0.10 or less per \$100 for the  
6 previous tax year.

7 "New ratables" means the product of the taxable value of any  
8 new construction or improvements times the tax rate of a local unit  
9 for its previous tax year.

10 (cf: P.L.2007, c.62, s.9)

11

12 **'[10.] 9.'** Section 10 of P.L.2007, c.62 (C.40A:4-45.45) is  
13 amended to read as follows:

14 10. a. (1) In the preparation of its budget the amount to be  
15 raised by taxation by a local unit shall not exceed, except as  
16 provided in paragraph (2) of this subsection, the sum of new  
17 ratables, the adjusted tax levy, and the total of waivers approved  
18 pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46); provided,  
19 however, that in the case of a county, the amount to be raised by  
20 taxation shall not exceed the amount permitted by section 4 of  
21 P.L.1976, c.68 (C.40A:4-45.4).

22 (2) A local unit that has not been granted approval for a waiver  
23 pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46), may add  
24 to its adjusted tax levy in any one of the next three succeeding  
25 years, the amount of the difference between the maximum  
26 allowable amount to be raised by taxation or county purposes tax,  
27 as applicable, for the current local budget year pursuant to  
28 paragraph (1) of this subsection and the actual amount to be raised  
29 by taxation or county purposes tax, as applicable, for the current  
30 local budget year.

31 b. The following exclusions shall be added to the calculation of  
32 the adjusted tax levy:

33 **'[(1)]'** increases in amounts required to be raised **'[for (a) all**  
34 debt service and (b) lease payments with county improvement  
35 authorities pursuant to leases in effect on the effective date of  
36 P.L.2007, c.62 (C.18A:7F-37 et al.);

37 (2) increases in amounts required to be raised to replace State  
38 formula aid due to a reduction in State formula aid from the  
39 previous local budget year;

40 (3) increases in amounts for certain pension contributions set  
41 forth in section 5 of P.L.2003, c.108 (C.40A:4-45.43) for the years  
42 set forth in that section;

43 (4) with respect to municipalities, any increase, greater than  
44 **[four] 2.9** percent, in the reserve for uncollected taxes that is  
45 required by law;

46 (5) increases in health care costs equal to that portion of the  
47 actual increase in total health care costs for the budget year that is  
48 in excess of **[four] 2.9** percent of the total health care costs in the

1 prior year, but is not in excess of the product of the total health care  
2 costs in the prior year and the average percentage increase of the  
3 State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et  
4 seq.), as annually determined by the Division of Pensions and  
5 Benefits in the Department of the Treasury;

6 (6) increases in amounts for certain normal and accrued liability  
7 pension contributions set forth in sections 1 and 2 of P.L.2009, c.19  
8 amending section 24 of P.L.1954, c.84 (C.43:15A-24) and section  
9 15 of P.L.1944, c.255 (C.43:16A-15) equal to that portion of the  
10 actual increase in normal and accrued liability pension contributions  
11 for the budget year that is in excess of **[four]** 2.9 percent of the  
12 normal and accrued liability pension contributions in the prior year**]**  
13 by taxation for capital expenditures, including debt service as  
14 defined by law; increases in pension contributions and accrued  
15 liability for pension contributions in excess of 2.0%; increases in  
16 health care costs equal to that portion of the actual increase in total  
17 health care costs for the budget year that is in excess of 2.0% of the  
18 total health care costs in the prior year, but is not in excess of the  
19 product of the total health care costs in the prior year and the  
20 average percentage increase of the State Health Benefits Program,  
21 P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually determined by  
22 the Division of Pensions and Benefits in the Department of the  
23 Treasury; and extraordinary costs incurred by a local unit directly  
24 related to a declared emergency, as defined by regulation  
25 promulgated by the Commissioner of the Department of  
26 Community Affairs, in consultation with the Commissioner of  
27 Education, as appropriate<sup>1</sup>.

28 **[**Notwithstanding the other provisions of this subsection, when  
29 the appropriation for all debt service is less than the amount  
30 appropriated for all debt service in the prior fiscal year, the amount  
31 of the difference shall be deducted from the sum of the exclusions  
32 listed in paragraphs (1) through (6) of this subsection.**]** If there are  
33 no exclusions, then the amount of the difference shall reduce the  
34 adjusted tax levy by that amount. Any cancelled or unexpended  
35 appropriation for any exclusion pursuant to this subsection or  
36 waiver pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46),  
37 also shall be deducted from the sum of the exclusions listed in  
38 paragraphs (1) through (6) or directly reduce the adjusted tax levy if  
39 there are no exclusions.

40 (cf: P.L.2009, c.19, s.4)

41

42 <sup>1</sup>**[**11.**]** 10<sup>1</sup> Section 11 of P.L.2007, c.62 (C.40A:4-45.46) is  
43 amended to read as follows:

44 11. a. <sup>1</sup>**[**The governing body of a local unit may request  
45 approval from the Local Finance Board in the Department of  
46 Community Affairs for a waiver to increase its amount to be raised

1 by taxes to address extraordinary costs[, which may include but not  
2 be limited to:

- 3 (1) increases in appropriations for capital lease payments;  
4 (2) energy cost increases in excess of four percent;  
5 (3) increases in insurance costs over the prebudget year in  
6 excess of four percent;  
7 (4) offsetting the loss of a non-recurring general fund revenue or  
8 surplus;  
9 (5) total net expenditures for new mandated services or net  
10 expenditure increases above four percent for the cost of those  
11 services that are mandated by any order of court, by any federal or  
12 State statute, or by administrative rule, directive, order, or other  
13 legally binding device issued by a State agency which has identified  
14 such cost as mandated expenditures on certification to the Local  
15 Finance Board by the State agency; and

16 (6) ~~for any purpose related to the provision of government~~  
17 ~~services that the board deems essential to protect [or promote] the~~  
18 ~~public health, safety, or welfare.~~

19 Amounts raised pursuant to a waiver granted pursuant to this  
20 subsection shall be included in the calculation of the adjusted tax  
21 levy in a subsequent year, unless otherwise required by the waiver.

22 Any decision of the Local Finance Board as to the entitlement of  
23 any local unit to a tax levy cap increase under this section shall be  
24 final and conclusive, and no appeal or review shall be taken  
25 therefrom; provided, however, that the matter may be put before the  
26 voters pursuant to subsection b. of this section. ~~(Deleted by~~  
27 ~~amendment, P.L. , c. ) (pending before the Legislature as this~~  
28 ~~bill)<sup>1</sup>~~

29 b. ~~[(1) Notwithstanding subsection a. of this section, the~~  
30 ~~governing body of a local unit may request approval, through a~~  
31 ~~public question submitted to the legal voters residing in its territory~~  
32 ~~to increase the amount to be raised by taxation by more than the~~  
33 ~~allowable adjusted tax levy. Approval shall be by an affirmative~~  
34 ~~vote of 60 percent or more of the people voting on the question at~~  
35 ~~the election. The local unit budget proposing the increase shall be~~  
36 ~~introduced and approved in the manner otherwise provided for~~  
37 ~~budgets of that local unit at least 20 days prior to the date on which~~  
38 ~~the referendum is to be held, and shall be published in the manner~~  
39 ~~otherwise provided for budgets of the local unit at least 12 days~~  
40 ~~prior to the referendum date, unless otherwise directed by the~~  
41 ~~Director of the Division of Local Government Services in the~~  
42 ~~Department of Community Affairs.~~

43 (2) The public question to be submitted to the voters at the  
44 referendum shall state only the amount by which the adjusted tax  
45 levy shall be increased by more than the otherwise allowable  
46 adjusted tax levy, and the percentage rate of increase which that  
47 amount represents over the allowable adjusted tax levy. The public

1 question shall include an accompanying explanatory statement that  
2 identifies the changes in appropriations or revenues that warranted  
3 the governing body's decision to ask the public question; or, in the  
4 alternative and subject to the approval of the Director of the  
5 Division of Local Government Services in the Department of  
6 Community Affairs, a clear and concise narrative explanation of the  
7 circumstances for the increased adjusted tax levy being proposed.

8 (3) Unless otherwise provided pursuant to section 1 of P.L.1989,  
9 c.31 (C.40A:4-5.1), a referendum conducted pursuant to this  
10 subsection shall be held:

11 (a) for calendar year budgets only on the fourth Tuesday in  
12 January and the second Tuesday in March other than in a year when  
13 a presidential primary election occurs, in which case no such  
14 election on that date may be called; and

15 (b) for fiscal year budgets, only the last Tuesday in September,  
16 or the second Tuesday in December;  
17 provided, however, that no referendum shall be held on the same  
18 day as a referendum to exceed the school district levy cap.

19 (4) Any decision of the voters rejecting an increase to the tax  
20 levy cap under this subsection shall be final and conclusive, and no  
21 appeal or review shall be taken therefrom and no waiver application  
22 shall be made to the Local Finance Board.

23 (5) The director is authorized to act as necessary in order to  
24 consolidate ballot questions and procedures when a governing body  
25 elects to hold a referendum under both this section and section 9 of  
26 P.L.1983, c.49 (C.40A:4-45.16).] '[(Deleted by amendment,  
27 P.L. , c. ) (pending before the Legislature as this bill)] (1) The  
28 governing body of a local unit may request approval, through a  
29 public question submitted to the legal voters residing in its territory  
30 to increase the amount to be raised by taxation by more than the  
31 allowable adjusted tax levy. Approval shall be by an affirmative  
32 vote of in excess of 50 percent of the people voting on the question  
33 at the election. The local unit budget proposing the increase shall  
34 be introduced and approved in the manner otherwise provided for  
35 budgets of that local unit at least 20 days prior to the date on which  
36 the referendum is to be held, and shall be published in the manner  
37 otherwise provided for budgets of the local unit at least 12 days  
38 prior to the referendum date, unless otherwise directed by the  
39 Director of the Division of Local Government Services in the  
40 Department of Community Affairs.

41 (2) The public question to be submitted to the voters at the  
42 referendum shall state only the amount by which the adjusted tax  
43 levy shall be increased by more than the otherwise allowable  
44 adjusted tax levy, and the percentage rate of increase which that  
45 amount represents over the allowable adjusted tax levy. The public  
46 question shall include an accompanying explanatory statement that  
47 identifies the changes in appropriations or revenues that warranted  
48 the governing body's decision to ask the public question; or, in the

1 alternative and subject to the approval of the Director of the  
2 Division of Local Government Services in the Department of  
3 Community Affairs, a clear and concise narrative explanation of the  
4 circumstances for the increased adjusted tax levy being proposed.

5 (3) Unless otherwise provided pursuant to section 1 of P.L.1989,  
6 c.31 (C.40A:4-5.1), a referendum conducted pursuant to this  
7 subsection shall be held:

8 (a) for calendar year budgets only on the fourth Tuesday in  
9 January and the second Tuesday in March other than in a year when  
10 a presidential primary election occurs, in which case no such  
11 election on that date may be called; and

12 (b) for fiscal year budgets, only the last Tuesday in September,  
13 or the second Tuesday in December;  
14 provided, however, that no referendum shall be held on the same  
15 day as a referendum to exceed the school district levy cap.

16 (4) Any decision of the voters rejecting an increase to the tax  
17 levy cap under this subsection shall be final and conclusive, and no  
18 appeal or review shall be taken therefrom and no waiver application  
19 shall be made to the Local Finance Board.

20 (5) The director is authorized to act as necessary in order to  
21 consolidate ballot questions and procedures when a governing body  
22 elects to hold a referendum under both this section and section 9 of  
23 P.L.1983, c.49 (C.40A:4-45.16).<sup>1</sup>

24 c. <sup>1</sup>【The Local Finance Board shall have the authority to grant  
25 additional waivers, applicable to all or some local units, as  
26 determined by the board, and only effective for the local budget  
27 year in which the waiver is granted, upon a finding of extraordinary  
28 circumstances that result in an unanticipated increase in  
29 expenditures for a service essential to the health, safety, and welfare  
30 of the residents of the State.】 (Deleted by amendment, P.L. , c. )  
31 (pending before the Legislature as this bill)<sup>1</sup>

32 d. The adjusted tax levy shall be increased or decreased  
33 accordingly whenever the responsibility and associated cost of an  
34 activity performed by a local unit is transferred to or from a local  
35 unit, other government entity, or other service provider.

36 (cf: P.L.2007, c.62, s.11)

37

38 <sup>1</sup>【12.】 11.<sup>1</sup> Section 47 of P.L.2007, c.62 is amended to read as  
39 follows:

40 47. This act shall take effect immediately; provided, however,  
41 【sections 2 through 12 shall be applicable only to budget years  
42 beginning on or after July 1, 2007, and shall not be applicable to  
43 budget years beginning after June 30, 2012;】 section 13 shall be  
44 retroactive to July 1, 2006, 【and shall not be applicable to budget  
45 years beginning after June 30, 2012;】 and sections 19 through 40  
46 shall first apply to claims for rebates and credits for property taxes  
47 paid for the tax year 2006.



**S29 [1R] SWEENEY**

31

1        **'[13.] 12.'** The following sections are repealed:

2        Section 36 of P.L.2000, c.126 (C.18A:7F-5a);

3        Section 3 of P.L.2003, c.92 (C.18A:7F-5b);

4        Section 1 of P.L.1997, c.232 (C.18A:7F-5.1);

5        Section 5 of P.L.2007, c.62 (C.18A:7F-40);

6        Section 17 of P.L.2007, c.260 (C.18A:7F-59).

7

8        **'[14.] 13.'** This act shall take effect immediately and shall be

9        applicable to the next local budget year following enactment.

# SENATE, No. 29

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 21, 2010

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman PETER J. BARNES, III**

**District 18 (Middlesex)**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman JOHN S. WISNIEWSKI**

**District 19 (Middlesex)**

**Senator JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Senator JIM WHELAN**

**District 2 (Atlantic)**

**Senator KEVIN J. O'TOOLE**

**District 40 (Bergen, Essex and Passaic)**

**Senator JOSEPH M. KYRILLOS, JR.**

**District 13 (Middlesex and Monmouth)**

**SYNOPSIS**

Reduces school district, county, and municipal property tax levy cap from 4% to 2.9% and permits unused school district, county, and municipal increases to be banked for three succeeding years.

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 7/8/2010)

1 AN ACT concerning the calculation of the local tax levy cap and  
2 revising parts of the statutory law.

3

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

6

7 1. Section 1 of P.L.2009, c.80 (C.18A:6-114) is amended to  
8 read as follows:

9 1. a. In counties in which there is located a municipality that  
10 had a population of 60,000 persons or more, as reported in the latest  
11 federal decennial census published prior to the enactment of this  
12 act, the board of education of each district that is a district factor  
13 group A or B school district that also is a kindergarten through  
14 grade 12 district with a concentration of at-risk pupils greater than  
15 40%, in conjunction with the local governing body of the  
16 municipality in which the district is located, shall develop a plan for  
17 a comprehensive program of after school activities for students  
18 enrolled in the district.

19 b. The plan shall include, but need not be limited to, the  
20 following:

21 (1) the goals and objectives of the program and the ways in  
22 which it will serve the needs and interests of the students in the  
23 district;

24 (2) a detailed description of the recreational, academic and civic  
25 enrichment activities that will be offered pursuant to the program;

26 (3) the background and qualifications of personnel who will  
27 direct and supervise the program;

28 (4) a schedule of the days and hours during which the program  
29 will operate;

30 (5) the criteria which will be utilized to determine eligibility for  
31 student participation in the program;

32 (6) an estimate of the number of students who will be served by  
33 the program;

34 (7) an estimate of the overall cost of the program and the  
35 amount of general fund tax levy required to be raised by the district  
36 to support the program; and

37 (8) any other information which the board determines to be  
38 necessary.

39 c. After the plan has been developed, the board of education, in  
40 conjunction with the local governing body, shall conduct two public  
41 hearings to receive community input on the plan.

42 d. After the plan for the comprehensive program of after school  
43 activities has been adopted by resolution of the board of education,  
44 the amount of any additional general fund tax levy required to be  
45 raised by the district to implement the program required pursuant to

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

**Matter underlined thus is new matter.**

1 this act shall be submitted to the voters of the district or the board  
2 of school estimate, as appropriate; except that the amount of any  
3 additional general fund tax levy shall not exceed \$2,000,000. If  
4 approved by the voters or the board of school estimate, the amount  
5 so approved shall be assessed, levied and collected in the manner  
6 provided by law. If the voters or the board of school estimate does  
7 not approve the additional general fund tax levy, the district shall  
8 not be required to implement the plan developed pursuant to this  
9 act.

10 e. Any additional general fund tax levy raised to implement the  
11 comprehensive program of after school activities established  
12 pursuant to this act shall not be used to supplant State or local funds  
13 allocated to support after school programs operated by the district  
14 as of the effective date of this act.

15 f. Amounts raised for the comprehensive program of after  
16 school activities established pursuant to this act shall be accounted  
17 for in a special revenue fund and used solely for the purposes of the  
18 program.

19 g. The amount of any additional general fund tax levy raised in  
20 any budget year pursuant to subsection d. of this section shall be an  
21 adjustment to the district's tax levy growth limitation as calculated  
22 pursuant to section 3 of P.L.2007, c.62 (C.18A:7F-38) [or the  
23 district's spending growth limitation as calculated pursuant to  
24 section 5 of P.L.1996, c.138 (C.18A:7F-5), as applicable].  
25 (cf: P.L.2009, c.80, s.1)

26

27 2. N.J.S.18A:7-8 is amended to read as follows:

28 18A:7-8. Each executive county superintendent shall:

29 a. Visit and examine from time to time all of the schools under  
30 his general supervision and exercise general supervision over them  
31 in accordance with the rules prescribed from time to time by the  
32 State board;

33 b. Keep himself informed as to the management, methods of  
34 instruction and discipline and the courses of study and textbooks in  
35 use, the condition of the school libraries, and the condition of the  
36 real and personal property, particularly in respect to the  
37 construction, heating, ventilation and lighting of school buildings,  
38 in the local districts under his general supervision, and make  
39 recommendations in connection therewith;

40 c. Advise with and counsel the boards of education of the local  
41 districts under his general supervision and of any other district of  
42 the county when so requested, in relation to the performance of  
43 their duties;

44 d. Promote administrative and operational efficiencies and cost  
45 savings within the school districts in the county while ensuring that  
46 the districts provide a thorough and efficient system of education;

47 e. Based on standards adopted by the commissioner,  
48 recommend to the commissioner, who is hereby granted the

1 authority to effectuate those recommendations, that certain school  
2 districts be required to enter arrangements with one or more other  
3 school districts or educational services commissions for the  
4 consolidation of the district's administrative services;

5 f. Recommend to the commissioner the elimination of laws the  
6 executive county superintendent determines to be unnecessary State  
7 education mandates, other than the categories of laws set forth in  
8 section 3 of P.L.1996, c.24 (C.52:13H-3);

9 g. Eliminate districts located in the county that are not  
10 operating schools on the effective date of P.L.2009, c.78 (C.18A:8-  
11 43 et al.), in accordance with a plan and schedule included in the  
12 plan submitted to and approved by the commissioner;

13 h. No later than three years following the effective date of  
14 sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), recommend  
15 to the commissioner a school district consolidation plan to eliminate  
16 all districts, other than county-based districts and other than  
17 preschool or kindergarten through grade 12 districts in the county,  
18 through the establishment or enlargement of regional school  
19 districts. After the approval of the plan by the commissioner, the  
20 executive county superintendent shall require each board of  
21 education covered by a proposal in the plan to conduct a special  
22 school election, at a time to be determined by the executive county  
23 superintendent, and submit thereat the question whether or not the  
24 executive county superintendent's proposal for the regionalization  
25 of the school district shall be adopted. The question shall be  
26 deemed adopted if it receives a vote in accordance with the  
27 provisions of N.J.S.18A:13-5. If the question is adopted by the  
28 voters, then the regional district shall be established or enlarged in  
29 accordance with chapter 13 of Title 18A of the New Jersey Statutes;

30 i. Promote coordination and regionalization of pupil  
31 transportation services through means such as reviewing bus routes  
32 and schedules of school districts and nonpublic schools within the  
33 county;

34 j. Review and approve, according to standards adopted by the  
35 commissioner, all employment contracts for superintendents of  
36 schools, assistant superintendents of schools, and school business  
37 administrators in school districts within the county, prior to the  
38 execution of those contracts;

39 k. Request the commissioner to order a forensic audit and to  
40 select an auditor for any school district in the county upon the  
41 determination by the executive county superintendent, according to  
42 standards adopted by the commissioner, that the accounting  
43 practices in the district necessitate such an audit;

44 l. Review all school budgets of the school districts within the  
45 county, and may, pursuant to section 5 of P.L.1996, c.138  
46 (C.18A:7F-5), disapprove a portion of a school district's proposed  
47 budget if he determines that the district has not implemented all  
48 potential efficiencies in the administrative operations of the district

1 or if he determines that the budget includes excessive non-  
2 instructional expenses. If the executive county superintendent  
3 disapproves a portion of the school district's budget pursuant to this  
4 paragraph, the school district shall deduct the disapproved amounts  
5 from the budget prior to publication of the budget, and during the  
6 budget year the school district shall not transfer funds back into  
7 those accounts;

8 m. **【**Permit a district to submit to the voters a separate proposal  
9 or proposals for additional funds pursuant to paragraph (9) of  
10 subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), only if:  
11 (1) the district provides the executive county superintendent with  
12 written documentation that the district has made efforts to enter into  
13 shared arrangements with other districts, municipalities, counties,  
14 and other units of local government for the provision of  
15 administrative, business, purchasing, public and nonpublic  
16 transportation, and other required school district services; (2) the  
17 district certifies and provides written documentation that the district  
18 participates in on-going shared arrangements; or (3) the district  
19 certifies and provides written documentation that entering such  
20 shared arrangements would not result in cost savings or would  
21 result in additional expenses for the district;**】** (Deleted by  
22 amendment, P.L. , c. ) (pending before the Legislature as this  
23 bill)

24 n. Promote cooperative purchasing within the county of  
25 textbooks and other instructional materials;

26 o. Coordinate with the Department of Education to maintain a  
27 real time Statewide and district-wide database that tracks the types  
28 and capacity of special education programs being implemented by  
29 each district and the number of students enrolled in each program to  
30 identify program availability and needs;

31 p. Coordinate with the Department of Education to maintain a  
32 Statewide and district-wide list of all special education students  
33 served in out-of-district programs and a list of all public and private  
34 entities approved to receive special education students that includes  
35 pertinent information such as audit results and tuition charges;

36 q. Serve as a referral source for districts that do not have  
37 appropriate in-district programs for special education students and  
38 provide those districts with information on placement options in  
39 other school districts;

40 r. Conduct regional planning and identification of program  
41 needs for the development of in-district special education programs;

42 s. Serve as a liaison to facilitate shared special education  
43 services within the county including, but not limited to direct  
44 services, personnel development, and technical assistance;

45 t. Work with districts to develop in-district special education  
46 programs and services including providing training in inclusive  
47 education, positive behavior supports, transition to adult life, and  
48 parent-professional collaboration;

1 u. Provide assistance to districts in budgetary planning for  
2 resource realignment and reallocation to direct special education  
3 resources into the classroom;

4 v. Report on a regular basis to the commissioner on progress in  
5 achieving the goal of increasing the number of special education  
6 students educated in appropriate programs with non-disabled  
7 students;

8 w. Render a report to the commissioner annually on or before  
9 September 1, in the manner and form prescribed by him, of such  
10 matters relating to the schools under his jurisdiction as the  
11 commissioner shall require; and

12 x. Perform such other duties as shall be prescribed by law.

13 Any budgetary action of the executive county superintendent  
14 under this section may be appealed directly to the commissioner,  
15 who shall render a decision within 15 days of the receipt of the  
16 appeal. If the commissioner fails to issue a decision within 15 days  
17 of the filing of an appeal, the budgetary action of the executive  
18 county superintendent shall be deemed approved. The  
19 commissioner shall by regulation establish a procedure for such  
20 appeals.

21 Nothing in this section shall be construed or interpreted to  
22 contravene or modify the provisions of the "New Jersey Employer-  
23 Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), or  
24 to limit or restrict the scope of negotiations as provided pursuant to  
25 law, or to require an employer to enter into a subcontracting  
26 agreement which affects the employment of any employee in a  
27 collective bargaining unit represented by a majority representative  
28 during the time that an existing collective bargaining agreement  
29 with the majority representative is in effect.

30 Nothing in this section is intended to interfere with a school  
31 district's ability to provide a thorough and efficient education.  
32 (cf: P.L.2009, c.78, s.10)

33

34 3. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to  
35 read as follows:

36 5. As used in this section, "cost of living" means the CPI as  
37 defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

38 a. Within 30 days following the approval of the Educational  
39 Adequacy Report, the commissioner shall notify each district of the  
40 base per pupil amount, the per pupil amounts for full-day preschool,  
41 the weights for grade level, county vocational school districts, at-  
42 risk pupils, bilingual pupils, and combination pupils, the cost  
43 coefficients for security aid and for transportation aid, the State  
44 average classification rate and the excess cost for general special  
45 education services pupils, the State average classification rate and  
46 the excess cost for speech-only pupils, and the geographic cost  
47 adjustment for each of the school years to which the report is  
48 applicable.

1       Annually, within two days following the transmittal of the State  
2 budget message to the Legislature by the Governor pursuant to  
3 section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner  
4 shall notify each district of the maximum amount of aid payable to  
5 the district in the succeeding school year pursuant to the provisions  
6 of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each  
7 district of the district's adequacy budget for the succeeding school  
8 year.

9       For the 2008-2009 school year and thereafter, unless otherwise  
10 specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts  
11 payable for the budget year shall be based on budget year pupil  
12 counts, which shall be projected by the commissioner using data  
13 from prior years. Adjustments for the actual pupil counts of the  
14 budget year shall be made to State aid amounts payable during the  
15 school year succeeding the budget year. Additional amounts  
16 payable shall be reflected as revenue and an account receivable for  
17 the budget year.

18       Notwithstanding any other provision of this act to the contrary,  
19 each district's State aid payable for the 2008-2009 school year, with  
20 the exception of aid for school facilities projects, shall be based on  
21 simulations employing the various formulas and State aid amounts  
22 contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The  
23 commissioner shall prepare a report dated December 12, 2007  
24 reflecting the State aid amounts payable by category for each  
25 district and shall submit the report to the Legislature prior to the  
26 adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as  
27 otherwise provided pursuant to this subsection and paragraph (3) of  
28 subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the  
29 amounts contained in the commissioner's report shall be the final  
30 amounts payable and shall not be subsequently adjusted other than  
31 to reflect the phase-in of the required general fund local levy  
32 pursuant to paragraph (4) of subsection b. of section 16 of  
33 P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to  
34 which a district may be entitled pursuant to section 20 of that act.  
35 The projected pupil counts and equalized valuations used for the  
36 calculation of State aid shall also be used for the calculation of  
37 adequacy budget, local share, and required local share. For 2008-  
38 2009, extraordinary special education State aid shall be included as  
39 a projected amount in the commissioner's report dated December  
40 12, 2007 pending the final approval of applications for the aid. If  
41 the actual award of extraordinary special education State aid is  
42 greater than the projected amount, the district shall receive the  
43 increase in the aid payable in the subsequent school year pursuant  
44 to the provisions of subsection c. of section 13 of P.L.2007, c.260  
45 (C.18A:7F-55). If the actual award of extraordinary special  
46 education State aid is less than the projected amount, other State aid  
47 categories shall be adjusted accordingly so that the district shall not  
48 receive less State aid than as provided in accordance with the



1 provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47  
2 and C.18A:7F-58).

3 In the event that the commissioner determines, following the  
4 enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the  
5 issuance of State aid notices for the 2008-2009 school year, that a  
6 significant district-specific change in data warrants an increase in  
7 State aid for that district, the commissioner may adjust the State aid  
8 amount provided for the district in the December 12, 2007 report to  
9 reflect the increase.

10 b. Each district shall have a required local share. For districts  
11 that receive educational adequacy aid pursuant to subsection b. of  
12 section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local  
13 share shall be calculated in accordance with the provisions of that  
14 subsection.

15 For all other districts, the required local share shall equal the  
16 lesser of the local share calculated at the district's adequacy budget  
17 pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the  
18 district's budgeted local share for the prebudget year.

19 In order to meet this requirement, each district shall raise a  
20 general fund tax levy which equals its required local share.

21 No municipal governing body or bodies or board of school  
22 estimate, as appropriate, shall certify a general fund tax levy which  
23 does not meet the required local share provisions of this section.

24 c. Annually, on or before March 4, each district board of  
25 education shall adopt, and submit to the commissioner for approval,  
26 together with such supporting documentation as the commissioner  
27 may prescribe, a budget that provides for a thorough and efficient  
28 education. Notwithstanding the provisions of this subsection to the  
29 contrary, the commissioner may adjust the date for the submission  
30 of district budgets if the commissioner determines that the  
31 availability of preliminary aid numbers for the subsequent school  
32 year warrants such adjustment.

33 Notwithstanding any provision of this section to the contrary, for  
34 the 2005-2006 school year each district board of education shall  
35 submit a proposed budget in which the advertised per pupil  
36 administrative costs do not exceed the lower of the following:

37 (1) the district's advertised per pupil administrative costs for the  
38 2004-2005 school year inflated by the cost of living or 2.5 percent,  
39 whichever is greater; or

40 (2) the per pupil administrative cost limits for the district's  
41 region as determined by the commissioner based on audited  
42 expenditures for the 2003-2004 school year.

43 The executive county superintendent of schools may disapprove  
44 the school district's 2005-2006 proposed budget if he determines  
45 that the district has not implemented all potential efficiencies in the  
46 administrative operations of the district. The executive county  
47 superintendent shall work with each school district in the county  
48 during the 2004-2005 school year to identify administrative

1 inefficiencies in the operations of the district that might cause the  
2 superintendent to reject the district's proposed 2005-2006 school  
3 year budget.

4 For the 2006-2007 school year and each school year thereafter,  
5 each district board of education shall submit a proposed budget in  
6 which the advertised per pupil administrative costs do not exceed  
7 the lower of the following:

8 (1) the district's prior year per pupil administrative costs; except  
9 that the district may submit a request to the commissioner for  
10 approval to exceed the district's prior year per pupil administrative  
11 costs due to increases in enrollment, administrative positions  
12 necessary as a result of mandated programs, administrative  
13 vacancies, nondiscretionary fixed costs, and such other items as  
14 defined in accordance with regulations adopted pursuant to section  
15 7 of P.L.2004, c.73. In the event that the commissioner approves a  
16 district's request to exceed its prior year per pupil administrative  
17 costs, the increase authorized by the commissioner shall not exceed  
18 the cost of living or 2.5 percent, whichever is greater; or

19 (2) the prior year per pupil administrative cost limits for the  
20 district's region inflated by the cost of living or 2.5 percent,  
21 whichever is greater.

22 d. (1) A district shall submit, as appropriate, to the board of  
23 school estimate or to the voters of the district at the annual school  
24 budget election conducted pursuant to the provisions of P.L.1995,  
25 c.278 (C.19:60-1 et al.), a general fund tax levy which [when added  
26 to the other components of its net budget] does not exceed the  
27 [prebudget year net budget by more than the spending growth  
28 limitation calculated as follows: the sum of the cost of living or 2.5  
29 percent, whichever is greater, multiplied by the prebudget year net  
30 budget, and adjustments for changes in enrollment, certain capital  
31 outlay expenditures, expenditures for pupil transportation services  
32 provided pursuant to N.J.S.18A:39-1.1, expenditures incurred in  
33 connection with the opening of a new school facility during the  
34 budget year, and special education costs per pupil in excess of  
35 \$40,000. The adjustment for special education costs shall equal any  
36 increase in the sum of per pupil amounts in excess of \$40,000 for  
37 the budget year less the sum of per pupil amounts in excess of  
38 \$40,000 for the prebudget year indexed by the cost of living or 2.5  
39 percent, whichever is greater. The adjustment for enrollments shall  
40 equal the increase in weighted resident enrollments between the  
41 prebudget year and budget year multiplied by the per pupil general  
42 fund tax levy amount for the prebudget year indexed by the cost of  
43 living or 2.5 percent, whichever is greater. The adjustment for  
44 capital outlay shall equal any increase between the capital outlay  
45 portion of the general fund budget for the budget year less any  
46 withdrawals from the capital reserve account and the capital outlay  
47 portion of the general fund budget for the prebudget year indexed  
48 by the cost of living or 2.5 percent, whichever is greater. Any

1 district with a capital outlay adjustment to its spending growth  
2 limitation shall be restricted from transferring any funds from  
3 capital outlay accounts to current expense accounts. The  
4 adjustment for capital outlay shall not become part of the prebudget  
5 year net budget for purposes of calculating the spending growth  
6 limitation of the subsequent year. The adjustment for pupil  
7 transportation costs provided pursuant to N.J.S.18A:39-1.1 shall  
8 equal any increase between the cost of providing such pupil  
9 transportation services for the budget year and the cost of providing  
10 such pupil transportation services for the prebudget year indexed by  
11 the cost of living or 2.5 percent, whichever is greater. The  
12 adjustment for the opening of a new school facility shall include  
13 costs associated with the new facility related to new teaching staff  
14 members, support staff, materials and equipment, custodial and  
15 maintenance expenditures, and such other required costs as  
16 determined by the commissioner] district's adjusted tax levy as  
17 calculated pursuant to sections 3 and 4 of P.L.2007, c.62  
18 (C.18A:7F-38 and 18A:7F-39).

19 (2) (Deleted by amendment, P.L.2007, c.260).

20 (3) (Deleted by amendment, P.L.2007, c.260).

21 (4) Any debt service payment made by a school district during  
22 the budget year shall not be included in the calculation of the  
23 district's **[**spending growth limitation] adjusted tax levy.

24 (5) (Deleted by amendment, P.L.2007, c.260).

25 (6) (Deleted by amendment, P.L.2007, c.260).

26 (7) (Deleted by amendment, P.L.2004, c.73).

27 (8) **[**If an increase in tuition for the budget year charged to a  
28 sending district by the receiving district pursuant to the provisions  
29 of N.J.S.18A:38-19 would reduce the sending district's per pupil net  
30 budget amount below the prior year's per pupil net budget amount  
31 in order to comply with the district's spending growth limitation, the  
32 district may apply to the commissioner for an adjustment to that  
33 limitation.] (Deleted by amendment, P.L. ., c. ) (pending before  
34 the Legislature as this bill)

35 (9) **[**Any district may submit at the annual school budget  
36 election a separate proposal or proposals for additional funds,  
37 including interpretive statements, specifically identifying the  
38 program purposes for which the proposed funds shall be used, to the  
39 voters, who may, by voter approval, authorize the raising of an  
40 additional general fund tax levy for such purposes. In the case of a  
41 district with a board of school estimate, one proposal for the  
42 additional spending shall be submitted to the board of school  
43 estimate. Any proposal or proposals submitted to the voters or the  
44 board of school estimate shall not: include any programs and  
45 services that were included in the district's prebudget year net  
46 budget unless the proposal is approved by the commissioner upon  
47 submission by the district of sufficient reason for an exemption to

1 this requirement; or include any new programs and services  
2 necessary for students to achieve the thoroughness standards  
3 established pursuant to subsection a. of section 4 of P.L.2007, c.260  
4 (C.18A:7F-46).

5 The executive county superintendent of schools may prohibit the  
6 submission of a separate proposal or proposals to the voters or  
7 board of school estimate if he determines that the district has not  
8 implemented all potential efficiencies in the administrative  
9 operations of the district, which efficiencies would eliminate the  
10 need for the raising of additional general fund tax levy.

11 Except as otherwise provided pursuant to paragraph (3) of  
12 subsection c. of section 4 of P.L.2007, c.62 (C.18A:7F-39), any  
13 proposal or proposals rejected by the voters shall be submitted to  
14 the municipal governing body or bodies for a determination as to  
15 the amount, if any, that should be expended notwithstanding voter  
16 rejection. The decision of the municipal governing body or bodies  
17 or board of school estimate, as appropriate, shall be final and no  
18 appeals shall be made to the commissioner. **(Deleted by**  
19 **amendment, P.L. , c. ) (pending before the Legislature as this**  
20 **bill)**

21 (10) Notwithstanding any provision of law to the contrary, if a  
22 district proposes a budget with a general fund tax levy and  
23 equalization aid which exceed the adequacy budget, the following  
24 statement shall be published in the legal notice of public hearing on  
25 the budget pursuant to N.J.S.18A:22-28, posted at the public  
26 hearing held on the budget pursuant to N.J.S.18A:22-29, and  
27 printed on the sample ballot required pursuant to section 10 of  
28 P.L.1995, c.278 (C.19:60-10):

29 "Your school district has proposed programs and services in  
30 addition to the core curriculum content standards adopted by the  
31 State Board of Education. Information on this budget and the  
32 programs and services it provides is available from your local  
33 school district."

34 (11) Any reduction that may be required to be made to programs  
35 and services included in a district's prebudget year net budget in  
36 order for the district to limit the growth in its budget between the  
37 prebudget and budget years by its **[spending] tax levy** growth  
38 limitation as calculated pursuant to **[this subsection] sections 3 and**  
39 **4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39)**, shall only  
40 include reductions to excessive administration or programs and  
41 services that are inefficient or ineffective.

42 e. (1) Any general fund tax levy rejected by the voters for a  
43 proposed budget that includes a general fund tax levy and  
44 equalization aid in excess of the adequacy budget shall be submitted  
45 to the governing body of each of the municipalities included within  
46 the district for determination of the amount that should be expended  
47 notwithstanding voter rejection. In the case of a district having a  
48 board of school estimate, the general fund tax levy shall be

1 submitted to the board for determination of the amount that should  
2 be expended. If the governing body or bodies or board of school  
3 estimate, as appropriate, reduce the district's proposed budget, the  
4 district may appeal any of the reductions to the commissioner on the  
5 grounds that the reductions will negatively impact on the stability of  
6 the district given the need for long term planning and budgeting. In  
7 considering the appeal, the commissioner shall consider enrollment  
8 increases or decreases within the district; the history of voter  
9 approval or rejection of district budgets; the impact on the local  
10 levy; and whether the reductions will impact on the ability of the  
11 district to fulfill its contractual obligations. A district may not  
12 appeal any reductions on the grounds that the amount is necessary  
13 for a thorough and efficient education.

14 (2) Any general fund tax levy rejected by the voters for a  
15 proposed budget that includes a general fund tax levy and  
16 equalization aid at or below the adequacy budget shall be submitted  
17 to the governing body of each of the municipalities included within  
18 the district for determination of the amount that should be expended  
19 notwithstanding voter rejection. In the case of a district having a  
20 board of school estimate, the general fund tax levy shall be  
21 submitted to the board for determination. Any reductions may be  
22 appealed to the commissioner on the grounds that the amount is  
23 necessary for a thorough and efficient education or that the  
24 reductions will negatively impact on the stability of the district  
25 given the need for long term planning and budgeting. In  
26 considering the appeal, the commissioner shall also consider the  
27 factors outlined in paragraph (1) of this subsection.

28 In addition, the municipal governing body or board of school  
29 estimate shall be required to demonstrate clearly to the  
30 commissioner that the proposed budget reductions shall not  
31 adversely affect the ability of the school district to provide a  
32 thorough and efficient education or the stability of the district given  
33 the need for long term planning and budgeting.

34 (3) In lieu of any budget reduction appeal provided for pursuant  
35 to paragraphs (1) and (2) of this subsection, the State board may  
36 establish pursuant to the "Administrative Procedure Act," P.L.1968,  
37 c.410 (C.52:14B-1 et seq.), an expedited budget review process  
38 based on a district's application to the commissioner for an order to  
39 restore a budget reduction.

40 (4) When the voters, municipal governing body or bodies, or the  
41 board of school estimate authorize the general fund tax levy, the  
42 district shall submit the resulting budget to the commissioner within  
43 15 days of the action of the voters or municipal governing body or  
44 bodies, whichever is later, or of the board of school estimate as the  
45 case may be.

46 f. (Deleted by amendment, P.L.2007, c.260).

47 g. (Deleted by amendment, P.L.2007, c.260).

48 (cf: P.L.2007, c.260, s.28)

1       4. Section 4 of P.L.1998, c.55 (C.18A:7F-5.2) is amended to  
2 read as follows:

3       4. a. Proceeds from the sale and lease-back of textbooks and  
4 non-consumable instructional materials shall not be considered  
5 miscellaneous local general fund revenue for the purpose of  
6 calculating the net budget [or the spending growth limitation under  
7 P.L.1996, c.138 (C.18A:7F-1 et seq.)].

8       b. A board of education may establish a reserve account in the  
9 general fund with all or a part of the proceeds from the sale and  
10 lease-back of textbooks and non-consumable instructional materials  
11 provided that subsequent appropriations from the reserve account  
12 shall only be made within the original budget certified for taxes or  
13 as approved by the commissioner for good cause.  
14 (cf: P.L.1998, c.55, s.4)

15  
16       5. Section 3 of P.L.2007, c.62 (C.18A:7F-38) is amended to  
17 read as follows:

18       3. a. (1) Notwithstanding the provisions of any other law to the  
19 contrary, a school district shall not adopt a budget pursuant to  
20 sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6)  
21 with an increase in its adjusted tax levy that exceeds, except as  
22 provided in subsection e. of section 4 of P.L.2007, c.62 (C.18A:7F-  
23 39), the tax levy growth limitation calculated as follows: the sum of  
24 the prebudget year adjusted tax levy and the adjustment for  
25 increases in enrollment multiplied by [four] 2.9 percent, and  
26 adjustments for a reduction in total unrestricted State aid from the  
27 prebudget year, an increase in health care costs, beginning in the  
28 2008-2009 school year, amounts approved by a waiver granted by  
29 the commissioner pursuant to section 4 of P.L.2007, c.62  
30 (C.18A:7F-39), and, for the 2010-2011 school year, increases in  
31 amounts for certain normal and accrued liability pension  
32 contributions set forth in sections 1 and 2 of P.L.2009, c.19  
33 amending section 24 of P.L.1954, c.84 (C.43:15A-24) and section  
34 15 of P.L.1944, c.255 (C.43:16A-15) for the year set forth in those  
35 sections.

36       (2) Notwithstanding any provision of paragraph (1) of this  
37 subsection to the contrary, beginning in the 2008-2009 school year  
38 the tax levy growth limitation for a district which is spending above  
39 adequacy as determined pursuant to subsection d. of section 5 of  
40 P.L.2007, c.260 (C.18A:7F-47) and has a prebudget year general  
41 fund tax levy greater than its local share as calculated pursuant to  
42 section 10 of that act and which receives an increase in State aid  
43 between the prebudget and budget years that is greater than 2% or  
44 the CPI, whichever is greater, shall be reduced by the amount of the  
45 State aid increase that exceeds 2% or the CPI, whichever is greater.  
46 For the purposes of this paragraph, the CPI shall not exceed 4%.  
47 The reduction shall be made following the calculation of any  
48 adjustments for increases in enrollment, a reduction in total

1 unrestricted State aid, an increase in health care costs, and an  
2 increase in the amount of the normal and accrued liability pension  
3 contributions calculated pursuant to subsections b., c., and d. of this  
4 section and prior to the request or approval of waivers pursuant to  
5 section 4 of P.L.2007, c.62 (C.18A:7F-39). In the event that the  
6 reduction would bring the district's spending below adequacy,  
7 notwithstanding the requirements of this paragraph to the contrary  
8 the amount of the reduction made to the district's tax levy growth  
9 limitation shall not be greater than the amount that brings the  
10 district's spending to adequacy.

11 b. (1) The allowable adjustment for increases in enrollment  
12 authorized pursuant to subsection a. of this section shall equal the  
13 per pupil prebudget year adjusted tax levy multiplied by EP, where  
14 EP equals the sum of:

15 (a) 0.50 for each unit of weighted resident enrollment that  
16 constitutes an increase from the prebudget year over 1%, but not  
17 more than 2.5%;

18 (b) 0.75 for each unit of weighted resident enrollment that  
19 constitutes an increase from the prebudget year over 2.5%, but not  
20 more than 4%; and

21 (c) 1.00 for each unit of weighted resident enrollment that  
22 constitutes an increase from the prebudget year over 4%.

23 (2) A school district may request approval from the  
24 commissioner to calculate EP equal to 1.00 for any increase in  
25 weighted resident enrollment if it can demonstrate that the  
26 calculation pursuant to paragraph (1) of this subsection would result  
27 in an average class size that exceeds 10% above the facilities  
28 efficiency standards established pursuant to P.L.2000, c.72  
29 (C.18A:7G-1 et al.).

30 c. The allowable adjustment for a reduction in total  
31 unrestricted State aid authorized pursuant to subsection a. of this  
32 section shall equal any reduction in total unrestricted State aid from  
33 the prebudget to the budget year.

34 d. (1) The allowable adjustment for increases in health care  
35 costs authorized pursuant to subsection a. of this section shall equal  
36 that portion of the actual increase in total health care costs for the  
37 budget year, less any withdrawals from the current expense  
38 emergency reserve account for increases in total health care costs,  
39 that exceeds **[four]** 2.9 percent of the total health care costs in the  
40 prebudget year, but that is not in excess of the product of the total  
41 health care costs in the prebudget year multiplied by the average  
42 percentage increase of the State Health Benefits Program, P.L.1961,  
43 c.49 (C.52:14-17.25 et seq.), as annually determined by the  
44 Division of Pensions and Benefits in the Department of the  
45 Treasury.

46 (2) The allowable adjustment for increases in the amount of  
47 normal and accrued liability pension contributions authorized  
48 pursuant to subsection a. of this section shall equal that portion of

1 the actual increase in total normal and accrued liability pension  
2 contributions for the budget year that exceeds **[four]** 2.9 percent of  
3 the total normal and accrued liability pension contributions in the  
4 prebudget year.

5 e. In addition to the adjustments authorized pursuant to  
6 subsection a. of this section, for the purpose of determining a school  
7 district's allowable tax levy growth limitation for the 2007-2008  
8 school year, a school district may apply to the commissioner for an  
9 adjustment for increases in special education costs over \$40,000 per  
10 pupil, increases in tuition, capital outlay increases, and incremental  
11 increases in costs for opening a new school facility in the budget  
12 year.

13 (1) The allowable adjustment for increases in special education  
14 costs over \$40,000 per pupil shall equal any increase in the sum of  
15 per pupil amounts in excess of \$40,000 for the budget year less the  
16 sum of per pupil amounts in excess of \$40,000 for the prebudget  
17 year indexed by four percent.

18 (2) The allowable adjustment for increases in tuition shall equal  
19 any increase in the tuition for the budget year charged to a sending  
20 district by the receiving district pursuant to the provisions of  
21 N.J.S.18A:38-19 or charged by a county vocational school district  
22 pursuant to the provisions of section 71 of P.L.1990, c.52  
23 (C.18A:54-20.1) less 104 percent of the tuition for the prebudget  
24 year charged to a sending district by the receiving district pursuant  
25 to the provisions of N.J.S.18A:38-19 or charged by a county  
26 vocational school district pursuant to the provisions of section 71 of  
27 P.L.1990, c.52 (C.18A:54-20.1).

28 (3) The allowable adjustment for increases in capital outlay  
29 shall equal any increase in capital outlay, less any withdrawals from  
30 the capital reserve account, over the prebudget year in excess of  
31 four percent.

32 f. The adjusted tax levy shall be increased or decreased  
33 accordingly whenever the responsibility and associated cost of a  
34 school district activity is transferred to another school district or  
35 governmental entity.

36 (cf: P.L.2009, c.19, s.3)

37

38 6. Section 4 of P.L.2007, c.62 (C.18A:7F-39) is amended to  
39 read as follows:

40 4. a. (1) Beginning in the 2008-2009 school year, a school  
41 district may request approval from the commissioner for a waiver to  
42 increase its adjusted tax levy by more than the allowable amount  
43 authorized in section 3 of P.L.2007, c.62 (C.18A:7F-38) to address  
44 **[extraordinary costs which may include, but not be limited to:**

45 **(a)]** a district's failure to meet the core curriculum content  
46 standards as determined through the New Jersey Quality Single  
47 Accountability Continuum. Prior to full implementation of  
48 NJQSAC, such determination shall be based on a school district's



1 status under the "No Child Left Behind Act of 2001," Pub.L. 107-  
2 110. The commissioner shall approve the increase only if the  
3 district satisfactorily demonstrates that the increase will be used to  
4 implement or expand programs or services to address the causes of  
5 the district's failure to meet the core curriculum content standards or  
6 other performance indicators as determined through NJQSAC [;

7 (b) energy cost increases over the prebudget year in excess of  
8 four percent;

9 (c) capital outlay increases, less any withdrawals from the  
10 capital reserve account, over the prebudget year in excess of four  
11 percent;

12 (d) the appropriation of non-recurring general fund revenues in  
13 the prebudget year original budget, including the appropriation of  
14 surplus;

15 (e) increases in insurance costs over the prebudget year in  
16 excess of four percent;

17 (f) increases in transportation costs required to service  
18 hazardous routes over the prebudget year in excess of four percent;

19 (g) increases in special education costs that exceed \$40,000 per  
20 each special education pupil over the prebudget year in excess of  
21 four percent;

22 (h) increases in tuition costs charged to a sending district by the  
23 receiving district pursuant to the provisions of N.J.S.18A:38-19  
24 over the prebudget year in excess of four percent or charged by a  
25 county vocational school district pursuant to the provisions of  
26 section 71 of P.L.1990, c.52 (C.18A:54-20.1) over the prebudget  
27 year in excess of four percent; and

28 (i) incremental increases in costs associated with opening a new  
29 school facility in the budget year】.

30 (2) A waiver request shall be submitted at least five working  
31 days prior to the required budget submission dates established  
32 pursuant to sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and  
33 18A:7F-6) in a form required by the commissioner, as appropriate,  
34 and shall include such information and documentation as the  
35 commissioner deems necessary.

36 (3) In considering a waiver request, in addition to the authority  
37 granted to the commissioner pursuant to section 6 of P.L.1996,  
38 c.138 (C.18A:7F-6), the commissioner shall have the power to  
39 make budgetary reallocations up to the total amount of the waiver  
40 request. The commissioner shall not reduce or reallocate any line  
41 item accounts that will impact the district's ability to meet the core  
42 curriculum content standards and provide a thorough and efficient  
43 education.

44 (4) A waiver approval shall specify whether the adjusted tax  
45 levy increase shall be limited to the budget year or added to the  
46 adjusted tax levy as a permanent increase.

47 (5) Any decision of the commissioner as to the entitlement of  
48 any school district to an increase of its adjusted tax levy pursuant to

1 this section shall be final and conclusive, and no appeal or review  
2 shall be taken therefrom [; except that the matter may be put before  
3 the voters pursuant to subsection c. of this section].

4 b. (1) The commissioner may direct a school district to increase  
5 specific line item expenditure accounts, for specific purposes, to  
6 address low achievement or the causes of the district's failure to  
7 meet the core curriculum content standards as determined through  
8 NJQSAC, or prior to full implementation of NJQSAC, as  
9 determined based on a school district's status under the "No Child  
10 Left Behind Act of 2001," Pub.L.107-110.

11 (2) The commissioner is authorized to approve a school district  
12 budget with an increase in its adjusted tax levy by more than the  
13 allowable amount authorized pursuant to section 3 of P.L.2007, c.62  
14 (C.18A:7F-38), up to the amount required to support the increase in  
15 expenditure accounts as directed in paragraph (1) of this subsection.

16 c. [For the 2007-2008 school year, or for the 2008-2009  
17 through 2011-2012 school years if a waiver requested pursuant to  
18 subsection a. of this section fails to be approved by the  
19 commissioner or if the school district elects not to request a waiver,  
20 the school district may submit to the voters at the April school  
21 election, or on such other date as is set by regulation of the  
22 commissioner, a proposal or proposals to increase the tax levy by  
23 more than the allowable amount authorized pursuant to section 3 of  
24 P.L.2007, c.62 (C.18A:7F-38). The proposal or proposals to  
25 increase the tax levy shall be approved if a majority of people  
26 voting at the April 2007 school election vote in the affirmative, or if  
27 60 percent of the people voting at the April 2008 through April  
28 2011 school elections vote in the affirmative. In the case of a  
29 school district with a board of school estimate, the additional tax  
30 levy shall be authorized only if a quorum is present for the vote and  
31 a majority of those board members who are present vote in the  
32 affirmative to authorize the additional tax levy.

33 (1) A proposal or proposals submitted to the voters or the board  
34 of school estimate to increase the tax levy pursuant to this  
35 subsection shall not include any programs or services necessary for  
36 students to achieve the core curriculum content standards.

37 (2) All proposals to increase the tax levy submitted pursuant to  
38 this subsection shall include interpretive statements specifically  
39 identifying the program purposes for which the proposed funds  
40 shall be used and a clear statement on whether approval will affect  
41 only the current year or result in a permanent increase in the levy.  
42 The proposals shall be submitted and approved pursuant to sections  
43 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6).

44 (3) For only the 2007-2008 school budget year, any proposal or  
45 proposals rejected by the voters shall be submitted to the municipal  
46 governing body or bodies for a determination as to the amount, if  
47 any, that should be expended notwithstanding voter rejection. The  
48 decision of the municipal governing body or bodies or board of

1 school estimate, as appropriate, shall be final and no appeals shall  
2 be made to the commissioner.] (Deleted by amendment, P.L. \_\_\_\_\_,  
3 c. ) (pending before the Legislature as this bill)

4 d. The commissioner shall have the authority to grant  
5 additional waivers, applicable to all or some school districts, as  
6 determined by the commissioner, and only effective for the school  
7 budget year in which the waiver is granted, upon a finding of  
8 extraordinary circumstances that result in an unanticipated increase  
9 in expenditures for a service essential to the health, safety and  
10 welfare of the school children of the State.

11 e. A school district that has not been granted approval for a  
12 waiver pursuant to this section, may add to its adjusted tax levy in  
13 any one of the next three succeeding budget years, the amount of  
14 the difference between the maximum allowable amount to be raised  
15 by taxation for the current school budget year and the actual amount  
16 to be raised by taxation for the current school budget year.

17 (cf: P.L.2007, c.62, s.4)

18

19 7. Section 3 of P.L.2007, c.260 (C.18A:7F-45) is amended to  
20 read as follows:

21 3. As used in this act and P.L.1996, c.138, unless the context  
22 clearly requires a different meaning:

23 "At-risk pupils" means those resident pupils from households  
24 with a household income at or below the most recent federal  
25 poverty guidelines available on October 15 of the prebudget year  
26 multiplied by 1.85;

27 "Base per pupil amount" means the cost per elementary pupil of  
28 delivering the core curriculum content standards and extracurricular  
29 and cocurricular activities necessary for a thorough and efficient  
30 education;

31 "Bilingual education pupil" means a resident pupil enrolled in a  
32 program of bilingual education or in an English as a second  
33 language program approved by the State Board of Education;

34 "Budgeted local share" means the district's local tax levy  
35 contained in the budget certified for taxation purposes;

36 "Capital outlay" means capital outlay as defined in GAAP;

37 "Combination pupil" means a resident pupil who is both an at-  
38 risk pupil and a bilingual education pupil;

39 "Commissioner" means the Commissioner of Education;

40 "Concentration of at-risk pupils" shall be based on prebudget  
41 year pupil data and means, for a school district or a county  
42 vocational school district, the number of at-risk pupils among those  
43 counted in resident enrollment, divided by resident enrollment;

44 "County special services school district" means any entity  
45 established pursuant to article 8 of chapter 46 of Title 18A of the  
46 New Jersey Statutes;

1 "County vocational school district" means any entity established  
2 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey  
3 Statutes;

4 "CPI" means the increase, expressed as a decimal, in the average  
5 annualized consumer price index for the New York City and  
6 Philadelphia areas in the fiscal year preceding the prebudget year  
7 relative to the previous fiscal year as reported by the United States  
8 Department of Labor;

9 "Debt service" means payments of principal and interest upon  
10 school bonds and other obligations issued to finance the purchase or  
11 construction of school facilities, additions to school facilities, or the  
12 reconstruction, remodeling, alteration, modernization, renovation or  
13 repair of school facilities, including furnishings, equipment,  
14 architect fees, and the costs of issuance of such obligations and  
15 shall include payments of principal and interest upon bonds  
16 heretofore issued to fund or refund such obligations, and upon  
17 municipal bonds and other obligations which the commissioner  
18 approves as having been issued for such purposes;

19 "District income" means the aggregate income of the residents of  
20 the taxing district or taxing districts, based upon data provided by  
21 the Division of Taxation in the New Jersey Department of the  
22 Treasury and contained on the New Jersey State Income Tax forms  
23 for the calendar year ending two years prior to the prebudget year.  
24 The commissioner may supplement data contained on the State  
25 Income Tax forms with data available from other State or federal  
26 agencies in order to better correlate the data to that collected on the  
27 federal census. With respect to regional districts and their  
28 constituent districts, however, the district income as described  
29 above shall be allocated among the regional and constituent districts  
30 in proportion to the number of pupils resident in each of them;

31 "Equalized valuation" means the equalized valuation of the  
32 taxing district or taxing districts, as certified by the Director of the  
33 Division of Taxation on October 1, or subsequently revised by the  
34 tax court by January 15, of the prebudget year. With respect to  
35 regional districts and their constituent districts, however, the  
36 equalized valuations as described above shall be allocated among  
37 the regional and constituent districts in proportion to the number of  
38 pupils resident in each of them. In the event that the equalized table  
39 certified by the director shall be revised by the tax court after  
40 January 15 of the prebudget year, the revised valuations shall be  
41 used in the recomputation of aid for an individual school district  
42 filing an appeal, but shall have no effect upon the calculation of the  
43 property value rate, Statewide average equalized school tax rate, or  
44 Statewide equalized total tax rate;

45 "Full-day preschool" means a preschool day consisting of a six-  
46 hour comprehensive educational program in accordance with the  
47 district's kindergarten through grade 12 school calendar;

1 "GAAP" means the generally accepted accounting principles  
2 established by the Governmental Accounting Standards Board as  
3 prescribed by the State board pursuant to N.J.S.18A:4-14;

4 "General special education services pupil" means a pupil  
5 receiving specific services pursuant to chapter 46 of Title 18A of  
6 the New Jersey Statutes;

7 "Geographic cost adjustment" means an adjustment that reflects  
8 county differences in the cost of providing educational services that  
9 are outside the control of the district;

10 "Household income" means income as defined in 7 CFRss.245.2  
11 and 245.6 or any subsequent superseding federal law or regulation;

12 "Net budget" means the sum of the district's general fund tax  
13 levy, State aid received pursuant to the provisions of this act other  
14 than preschool education aid, miscellaneous revenue estimated  
15 pursuant to GAAP, and designated general fund balance;

16 "Prebudget year" means the school fiscal year preceding the year  
17 in which the school budget is implemented;

18 "Nonpreschool ECPA" means the amount of early childhood  
19 program aid, excluding prior year carry-forward amounts, included  
20 in a district's 2007-2008 school year budget certified for taxes that  
21 was allocated to grades K through 3;

22 "Report" means the Educational Adequacy Report issued by the  
23 commissioner pursuant to section 4 of this act;

24 "Resident enrollment" means the number of pupils other than  
25 preschool pupils, post-graduate pupils, and post-secondary  
26 vocational pupils who, on the last school day prior to October 16 of  
27 the current school year, are residents of the district and are enrolled  
28 in: (1) the public schools of the district, excluding evening schools,  
29 (2) another school district, other than a county vocational school  
30 district in the same county on a full-time basis, or a State college  
31 demonstration school or private school to which the district of  
32 residence pays tuition, or (3) a State facility in which they are  
33 placed by the district; or are residents of the district and are: (1)  
34 receiving home instruction, or (2) in a shared-time vocational  
35 program and are regularly attending a school in the district and a  
36 county vocational school district. In addition, resident enrollment  
37 shall include the number of pupils who, on the last school day prior  
38 to October 16 of the prebudget year, are residents of the district and  
39 in a State facility in which they were placed by the State. Pupils in  
40 a shared-time vocational program shall be counted on an equated  
41 full-time basis in accordance with procedures to be established by  
42 the commissioner. Resident enrollment shall include regardless of  
43 nonresidence, the enrolled children of teaching staff members of the  
44 school district or county vocational school district who are  
45 permitted, by contract or local district policy, to enroll their  
46 children in the educational program of the school district or county  
47 vocational school district without payment of tuition. Disabled  
48 children between three and five years of age and receiving programs

1 and services pursuant to N.J.S.18A:46-6 shall be included in the  
2 resident enrollment of the district;

3 "School district" means any local or regional school district  
4 established pursuant to chapter 8 or chapter 13 of Title 18A of the  
5 New Jersey Statutes;

6 ["Spending growth limitation" means the annual rate of growth  
7 permitted in the net budget of a school district, county vocational  
8 school district, or county special services school district as  
9 measured between the net budget of the prebudget year and the net  
10 budget of the budget year as calculated pursuant to the provisions of  
11 section 5 of P.L.1996, c.138 (C.18A:7F-5);]

12 "State facility" means a State developmental center, a State  
13 Division of Youth and Family Services' residential center, a State  
14 residential mental health center, a Department of Children and  
15 Families Regional Day School, a State training school/secure care  
16 facility, a State juvenile community program, a juvenile detention  
17 center or a boot camp under the supervisory authority of the  
18 Juvenile Justice Commission pursuant to P.L.1995, c.284  
19 (C.52:17B-169 et seq.), or an institution operated by or under  
20 contract with the Department of Corrections, Children and Families  
21 or Human Services, or the Juvenile Justice Commission;

22 "Statewide equalized school tax rate" means the amount  
23 calculated by dividing the general fund tax levy for all school  
24 districts, which excludes county vocational school districts and  
25 county special services school districts as defined pursuant to this  
26 section, in the State for the prebudget year by the equalized  
27 valuations certified in the year prior to the prebudget year of all  
28 taxing districts in the State except taxing districts for which there  
29 are not school tax levies;

30 "Tax levy growth limitation" means the permitted annual  
31 increase in the adjusted tax levy for a school district as calculated  
32 pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and  
33 18A:7F-39).

34 (cf: P.L.2007, c.260, s.3)

35

36 8. N.J.S.18A:20-4.2 is amended to read as follows:

37 18A:20-4.2. The board of education of any school district may,  
38 for school purposes:

39 (a) Purchase, take and condemn lands within the district and  
40 lands not exceeding 50 acres in extent without the district but  
41 situate in a municipality or municipalities adjoining the district, but  
42 no more than 25 acres may be so acquired in any one such  
43 municipality, without the district, except with the consent, by  
44 ordinance, of such municipality;

45 (b) Grade, drain and landscape lands owned or to be acquired by  
46 it and improve the same in like manner;

47 (c) Erect, lease for a term not exceeding 50 years, enlarge,  
48 improve, repair or furnish buildings;

1 (d) Borrow money therefor, with or without mortgage; in the  
2 case of a type II district without a board of school estimate, when  
3 authorized so to do at any annual or special school election; and in  
4 the case of a type II district having a board of school estimate, when  
5 the amount necessary to be provided therefor shall have been fixed,  
6 determined and certified by the board of school estimate; and in the  
7 case of a type I district, when an ordinance authorizing expenditures  
8 for such purpose is finally adopted by the governing body of a  
9 municipality comprised within the district; provided, however, that  
10 no such election shall be held nor shall any such resolution of a  
11 school estimate board or ordinance of a municipal governing body  
12 be introduced to authorize any lease of any building for a term  
13 exceeding one year, until the proposed terms of such lease have  
14 been reviewed and approved by the Commissioner of Education and  
15 the Local Finance Board in the Department of Community Affairs;

16 (e) Construct, purchase, lease or otherwise acquire a building  
17 with the federal government, the State, a political subdivision  
18 thereof or any other individual or entity properly authorized to do  
19 business in the State; provided that: (1) the noneducational uses of  
20 the building are compatible with the establishment and operation of  
21 a school, as determined by the Commissioner of Education; (2) the  
22 portion of the building to be used as a school meets regulations of  
23 the Department of Education; (3) the board of education has  
24 complied with the provisions of law and regulations relating to the  
25 selection and approval of sites; and (4) in the case of a lease, that  
26 any lease in excess of five years shall be approved by the  
27 Commissioner of Education and the Local Finance Board in the  
28 Department of Community Affairs;

29 (f) Acquire, with the approval of either the commissioner, or  
30 voters or board of school estimate, as applicable, improvements or  
31 additions to school buildings through lease purchase agreements not  
32 in excess of five years. The agreement shall be recorded as an  
33 expenditure of the General Fund of the district. The commissioner  
34 shall approve the agreement only upon a demonstration by the  
35 district that the lease purchase payments and any operating  
36 expenses related to the agreement can be included within the  
37 district's [net budget spending growth limitation and will not result  
38 in the need for approval by the voters or board of school estimate,  
39 as appropriate, of additional spending proposals to maintain  
40 existing instructional programs and extracurricular activities] tax  
41 levy growth limitation. If the commissioner cannot approve the  
42 agreement, the board of education may frame a separate question to  
43 authorize the lease purchase agreement and obtain voter or board of  
44 school estimate approval to enter into the agreement. A district  
45 may, without separate prior approval of the commissioner, also  
46 acquire equipment through a lease purchase agreement not in excess  
47 of five years or in the case of a lease purchase agreement entered  
48 into for the acquisition of school buses not in excess of 10 years,

1 provided that the amount of the first installment and each  
2 subsequent installment for the lease purchase payments is included  
3 in the budget that is advertised and submitted for approval to the  
4 voters of the district or the board of school estimate, as appropriate.  
5 As used herein, a "lease purchase agreement" refers to any  
6 agreement which gives the board of education as lessee the option  
7 of purchasing the leased equipment or improvements or additions to  
8 existing school buildings during or upon termination of the lease,  
9 with credit toward the purchase price of all or part of rental  
10 payments which have been made by the board of education in  
11 accordance with the lease. As part of such a transaction, the board  
12 of education may transfer or lease land or rights in land, including  
13 any building thereon, after publicly advertising for proposals for the  
14 transfer for nominal or fair market value, to the party selected by  
15 the board of education, by negotiation or otherwise, after  
16 determining that the proposal is in the best interest of the taxpayers  
17 of the district, to construct or to improve and to lease or to own or  
18 to have ownership interests in the site and the school building to be  
19 leased pursuant to such lease purchase agreement, notwithstanding  
20 the provisions of any other law to the contrary. The land and any  
21 building thereon which is described in a lease purchase agreement  
22 entered into pursuant to this amendatory act, shall be deemed to be  
23 and treated as property of the school district, used for school  
24 purposes pursuant to R.S.54:4-3.3, and shall not be considered or  
25 treated as property leased to another whose property is not exempt,  
26 and shall not be assessed as real estate pursuant to section 1 of  
27 P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement  
28 authorized by this section shall contain a provision making  
29 payments thereunder subject to the annual appropriation of funds  
30 sufficient to meet the required payments or shall contain an annual  
31 cancellation clause and shall require all construction contracts let by  
32 public school districts or let by developers or owners of property  
33 used for school purposes to be competitively bid, pursuant to  
34 N.J.S.18A:18A-1 et seq.;

35 (g) Establish with an individual or entity authorized to do  
36 business in the State a tenancy in common, condominium,  
37 horizontal property regime or other joint ownership arrangement on  
38 a site contributed by the school district; provided the following  
39 conditions are met:

40 (1) The individual or entity agrees to construct on the site, or  
41 provide for the construction thereon, a building or buildings for use  
42 of the board of education separately or jointly with the individual or  
43 entity, which shall be subject to the joint ownership arrangement;

44 (2) The provision of the building shall be at no cost or at a  
45 reduced cost to the board of education;

46 (3) The school district shall not make any payment for use of the  
47 building other than its pro rata share of costs of maintenance and  
48 improvements;



1 (4) The noneducational uses of the building are compatible with  
2 the establishment and operation of a school, as determined by the  
3 Commissioner of Education;

4 (5) The portion of the building to be used as a school, and the  
5 site, meet regulations of the Department of Education; and

6 (6) Any such agreement shall be approved by the Commissioner  
7 of Education and the Local Finance Board in the Department of  
8 Community Affairs;

9 (h) Acquire through sale and lease-back textbooks and non-  
10 consumable instructional materials provided that the sale price and  
11 principal amount of the lease-back do not exceed the fair market  
12 value of the textbooks and instructional materials and that the  
13 interest rate applied in the lease-back is consistent with prevailing  
14 market rates or is less.

15 (cf: P.L.2001, c.146, s.1)

16

17 9. Section 9 of P.L.2007, c.62 (C.40A:4-45.44) is amended to  
18 read as follows:

19 9. For the purposes of sections 9 through 13 of P.L.2007, c.62  
20 (C.40A:4-45.44 through C.40A:4-45.47 and C.40A:4-45.3e):

21 "Adjusted tax levy" means an amount not greater than the  
22 amount to be raised by taxation of the previous fiscal year, less any  
23 waivers from a prior fiscal year required to be deducted by the  
24 Local Finance Board pursuant to section 11 of P.L.2007, c.62  
25 (C.40A:4-45.46), that result multiplied by **[1.04]** 1.029, to which  
26 the sum of exclusions defined in subsection b. of section 10 of  
27 P.L.2007, c.62 (C.40A:4-45.45) shall be added.

28 "Amount to be raised by taxation" means the property tax levy  
29 set in the annual budget of a local unit.

30 "Local unit" means a municipality, county, fire district, or solid  
31 waste collection district, but shall not include a municipality that  
32 had a municipal purposes tax rate of \$0.10 or less per \$100 for the  
33 previous tax year.

34 "New ratables" means the product of the taxable value of any  
35 new construction or improvements times the tax rate of a local unit  
36 for its previous tax year.

37 (cf: P.L.2007, c.62, s.9)

38

39 10. Section 10 of P.L.2007, c.62 (C.40A:4-45.45) is amended to  
40 read as follows:

41 10. a. (1) In the preparation of its budget the amount to be  
42 raised by taxation by a local unit shall not exceed, except as  
43 provided in paragraph (2) of this subsection, the sum of new  
44 ratables, the adjusted tax levy, and the total of waivers approved  
45 pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46); provided,  
46 however, that in the case of a county, the amount to be raised by  
47 taxation shall not exceed the amount permitted by section 4 of  
48 P.L.1976, c.68 (C.40A:4-45.4).

1       (2) A local unit that has not been granted approval for a waiver  
2 pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46), may add  
3 to its adjusted tax levy in any one of the next three succeeding  
4 years, the amount of the difference between the maximum  
5 allowable amount to be raised by taxation or county purposes tax,  
6 as applicable, for the current local budget year pursuant to  
7 paragraph (1) of this subsection and the actual amount to be raised  
8 by taxation or county purposes tax, as applicable, for the current  
9 local budget year.

10       b. The following exclusions shall be added to the calculation of  
11 the adjusted tax levy:

12       (1) increases in amounts required to be raised for (a) all debt  
13 service and (b) lease payments with county improvement authorities  
14 pursuant to leases in effect on the effective date of P.L.2007, c.62  
15 (C.18A:7F-37 et al.);

16       (2) increases in amounts required to be raised to replace State  
17 formula aid due to a reduction in State formula aid from the  
18 previous local budget year;

19       (3) increases in amounts for certain pension contributions set  
20 forth in section 5 of P.L.2003, c.108 (C.40A:4-45.43) for the years  
21 set forth in that section;

22       (4) with respect to municipalities, any increase, greater than  
23 **[four]** 2.9 percent, in the reserve for uncollected taxes that is  
24 required by law;

25       (5) increases in health care costs equal to that portion of the  
26 actual increase in total health care costs for the budget year that is  
27 in excess of **[four]** 2.9 percent of the total health care costs in the  
28 prior year, but is not in excess of the product of the total health care  
29 costs in the prior year and the average percentage increase of the  
30 State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et  
31 seq.), as annually determined by the Division of Pensions and  
32 Benefits in the Department of the Treasury;

33       (6) increases in amounts for certain normal and accrued liability  
34 pension contributions set forth in sections 1 and 2 of P.L.2009, c.19  
35 amending section 24 of P.L.1954, c.84 (C.43:15A-24) and section  
36 15 of P.L.1944, c.255 (C.43:16A-15) equal to that portion of the  
37 actual increase in normal and accrued liability pension contributions  
38 for the budget year that is in excess of **[four]** 2.9 percent of the  
39 normal and accrued liability pension contributions in the prior year.

40       **[Notwithstanding the other provisions of this subsection, when**  
41 **the appropriation for all debt service is less than the amount**  
42 **appropriated for all debt service in the prior fiscal year, the amount**  
43 **of the difference shall be deducted from the sum of the exclusions**  
44 **listed in paragraphs (1) through (6) of this subsection.]** If there are  
45 no exclusions, then the amount of the difference shall reduce the  
46 adjusted tax levy by that amount. Any cancelled or unexpended  
47 appropriation for any exclusion pursuant to this subsection or

1 waiver pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46),  
2 also shall be deducted from the sum of the exclusions listed in  
3 paragraphs (1) through (6) or directly reduce the adjusted tax levy if  
4 there are no exclusions.

5 (cf: P.L.2009, c.19, s.4)

6

7 11. Section 11 of P.L.2007, c.62 (C.40A:4-45.46) is amended to  
8 read as follows:

9 11. a. The governing body of a local unit may request approval  
10 from the Local Finance Board in the Department of Community  
11 Affairs for a waiver to increase its amount to be raised by taxes to  
12 address extraordinary costs[, which may include but not be limited  
13 to:

14 (1) increases in appropriations for capital lease payments;

15 (2) energy cost increases in excess of four percent;

16 (3) increases in insurance costs over the prebudget year in  
17 excess of four percent;

18 (4) offsetting the loss of a non-recurring general fund revenue or  
19 surplus;

20 (5) total net expenditures for new mandated services or net  
21 expenditure increases above four percent for the cost of those  
22 services that are mandated by any order of court, by any federal or  
23 State statute, or by administrative rule, directive, order, or other  
24 legally binding device issued by a State agency which has identified  
25 such cost as mandated expenditures on certification to the Local  
26 Finance Board by the State agency; and

27 (6)] for any purpose related to the provision of government  
28 services that the board deems essential to protect [or promote] the  
29 public health, safety, or welfare.

30 Amounts raised pursuant to a waiver granted pursuant to this  
31 subsection shall be included in the calculation of the adjusted tax  
32 levy in a subsequent year, unless otherwise required by the waiver.

33 Any decision of the Local Finance Board as to the entitlement of  
34 any local unit to a tax levy cap increase under this section shall be  
35 final and conclusive, and no appeal or review shall be taken  
36 therefrom; provided, however, that the matter may be put before the  
37 voters pursuant to subsection b. of this section.

38 b. [(1) Notwithstanding subsection a. of this section, the  
39 governing body of a local unit may request approval, through a  
40 public question submitted to the legal voters residing in its territory  
41 to increase the amount to be raised by taxation by more than the  
42 allowable adjusted tax levy. Approval shall be by an affirmative  
43 vote of 60 percent or more of the people voting on the question at  
44 the election. The local unit budget proposing the increase shall be  
45 introduced and approved in the manner otherwise provided for  
46 budgets of that local unit at least 20 days prior to the date on which  
47 the referendum is to be held, and shall be published in the manner  
48 otherwise provided for budgets of the local unit at least 12 days

1 prior to the referendum date, unless otherwise directed by the  
2 Director of the Division of Local Government Services in the  
3 Department of Community Affairs.

4 (2) The public question to be submitted to the voters at the  
5 referendum shall state only the amount by which the adjusted tax  
6 levy shall be increased by more than the otherwise allowable  
7 adjusted tax levy, and the percentage rate of increase which that  
8 amount represents over the allowable adjusted tax levy. The public  
9 question shall include an accompanying explanatory statement that  
10 identifies the changes in appropriations or revenues that warranted  
11 the governing body's decision to ask the public question; or, in the  
12 alternative and subject to the approval of the Director of the  
13 Division of Local Government Services in the Department of  
14 Community Affairs, a clear and concise narrative explanation of the  
15 circumstances for the increased adjusted tax levy being proposed.

16 (3) Unless otherwise provided pursuant to section 1 of P.L.1989,  
17 c.31 (C.40A:4-5.1), a referendum conducted pursuant to this  
18 subsection shall be held:

19 (a) for calendar year budgets only on the fourth Tuesday in  
20 January and the second Tuesday in March other than in a year when  
21 a presidential primary election occurs, in which case no such  
22 election on that date may be called; and

23 (b) for fiscal year budgets, only the last Tuesday in September,  
24 or the second Tuesday in December;  
25 provided, however, that no referendum shall be held on the same  
26 day as a referendum to exceed the school district levy cap.

27 (4) Any decision of the voters rejecting an increase to the tax  
28 levy cap under this subsection shall be final and conclusive, and no  
29 appeal or review shall be taken therefrom and no waiver application  
30 shall be made to the Local Finance Board.

31 (5) The director is authorized to act as necessary in order to  
32 consolidate ballot questions and procedures when a governing body  
33 elects to hold a referendum under both this section and section 9 of  
34 P.L.1983, c.49 (C.40A:4-45.16). 】 (Deleted by amendment, P.L. ,  
35 c. ) (pending before the Legislature as this bill)

36 c. The Local Finance Board shall have the authority to grant  
37 additional waivers, applicable to all or some local units, as  
38 determined by the board, and only effective for the local budget  
39 year in which the waiver is granted, upon a finding of extraordinary  
40 circumstances that result in an unanticipated increase in  
41 expenditures for a service essential to the health, safety, and welfare  
42 of the residents of the State.

43 d. The adjusted tax levy shall be increased or decreased  
44 accordingly whenever the responsibility and associated cost of an  
45 activity performed by a local unit is transferred to or from a local  
46 unit, other government entity, or other service provider.

47 (cf: P.L.2007, c.62, s.11)

1       12. Section 47 of P.L.2007, c.62 is amended to read as follows:  
2       47. This act shall take effect immediately; provided, however,  
3       【sections 2 through 12 shall be applicable only to budget years  
4       beginning on or after July 1, 2007, and shall not be applicable to  
5       budget years beginning after June 30, 2012;】 section 13 shall be  
6       retroactive to July 1, 2006, 【and shall not be applicable to budget  
7       years beginning after June 30, 2012;】 and sections 19 through 40  
8       shall first apply to claims for rebates and credits for property taxes  
9       paid for the tax year 2006.

10

11       13. The following sections are repealed:  
12       Section 36 of P.L.2000, c.126 (C.18A:7F-5a);  
13       Section 3 of P.L.2003, c.92 (C.18A:7F-5b);  
14       Section 1 of P.L.1997, c.232 (C.18A:7F-5.1);  
15       Section 5 of P.L.2007, c.62 (C.18A:7F-40);  
16       Section 17 of P.L.2007, c.260 (C.18A:7F-59).

17

18       14. This act shall take effect immediately and shall be applicable  
19       to the next local budget year following enactment.

20

21

22

#### STATEMENT

23

24       This bill reduces the tax levy cap for school districts, counties,  
25       municipalities, fire districts, and solid waste collection districts  
26       from the currently permitted 4% annual increase to a 2.9%  
27       permitted annual increase. The bill also establishes the tax levy cap  
28       as the permanent mechanism for the calculation of the maximum  
29       allowable increase in property taxes that may occur between budget  
30       years. Under existing law, the 2007 tax levy cap law is scheduled  
31       to expire June 30, 2012.

32

33       The bill narrows the purposes for which waivers to authorize the  
34       raising of additional tax levy may be requested from the Local  
35       Finance Board to only those purposes related to the provision of  
36       government services that the board deems essential to protect the  
37       public health, safety, or welfare. In the case of school districts, a  
38       waiver may only be requested from the Commissioner of Education  
39       for a district's failure to meet the core curriculum content standards  
40       (thorough and efficient). The bill also eliminates the ability of a  
41       local unit or a school district to submit a public question to the  
42       voters to exceed the allowable tax levy.

42

43       The bill would also permit levy cap "banking" of any portion of  
44       the permitted 2.9% increase under the property tax levy cap that is  
45       not used by a county or municipality in any budget year. In the  
46       case of a school district it would allow cap banking of any portion  
47       of the permitted 2.9% increase plus applicable adjustments not used  
48       by the school district in a budget year. Under current law, if a  
49       county, municipality, or school district does not use the entire 4%

1 increase, perhaps because it uses surplus that year to keep tax rates  
2 steady, the difference is lost. This can be a problem in a succeeding  
3 tax year if circumstances require an unexpected increase in  
4 expenditures to maintain services. Under the bill, the cap is being  
5 reduced, but any unused permissible increase amount under the  
6 reduced levy cap limit could be used in any one of the next three  
7 succeeding budget years. This concept is similar to cap banking  
8 under the municipal and county appropriations cap law  
9 (N.J.S.A.40A:4-45.1 et seq.). Cap banking was also authorized  
10 under the statutes which established the formula for the calculation  
11 of a school district's spending growth limitation, which was last  
12 operative in the 2006-2007 school year, and which is being repealed  
13 under this bill as the tax levy growth limitation becomes the  
14 permanent mechanism to calculate school district tax levy increases.

15 The bill also deletes language in current law in order to eliminate  
16 a levy cap penalty that occurs when a county or municipality acts  
17 responsibly to reduce its debt servicing expenditures.

18 The reduction in the property tax levy cap would be applicable to  
19 the local budget year next following enactment of the bill, and the  
20 opportunity to bank any unused portion of the allowable increase  
21 would commence in that local budget year so that any unused  
22 portion of the current 4 percent levy cap would not be available to  
23 be banked.

24 The current levy cap, enacted in 2007, has been effective in  
25 holding down the rate of property tax increases. According to the  
26 information posted on the Division of Local Government Services  
27 website, the average municipal property tax bill rose 3.7% from  
28 2007 to 2008 and 3.3% from 2008 to 2009. The tightening of the  
29 existing levy cap laws will act to further control such increases.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 29

# STATE OF NEW JERSEY

DATED: JUNE 23, 2010

The Senate Budget and Appropriations committee reports favorably on Senate Bill No. 29.

This bill reduces the tax levy cap for school districts, counties, municipalities, fire districts, and solid waste collection districts from the currently permitted 4% annual increase to a 2.9% permitted annual increase. The bill also establishes the tax levy cap as the permanent mechanism for the calculation of the maximum allowable increase in the tax levy for local units and school districts that may occur between budget years. Under existing law, the 2007 tax levy cap law is scheduled to expire June 30, 2012.

The bill narrows the purposes for which waivers to authorize the raising of additional tax levy may be requested from the Local Finance Board to only those purposes related to the provision of government services that the board deems essential to protect the public health, safety, or welfare. In the case of school districts, a waiver may only be requested from the Commissioner of Education for a district's failure to meet the core curriculum content standards (thorough and efficient). The bill also eliminates the ability of a local unit or a school district to submit a separate public question to the voters to authorize the raising of additional tax levy.

The bill would also permit levy cap "banking" of any portion of the permitted 2.9% increase under the property tax levy cap that is not used by a county or municipality in any budget year. In the case of a school district it would allow cap banking of any portion of the permitted 2.9% increase plus applicable adjustments not used by the school district in a budget year. Under current law, if a county, municipality, or school district does not use the entire 4% increase, perhaps because it uses surplus that year to keep tax rates steady, the difference is lost. This can be a problem in a succeeding tax year if circumstances require an unexpected increase in expenditures to maintain services. Under the bill, the cap is being reduced, but any unused permissible increase amount under the reduced levy cap limit could be used in any one of the next three succeeding budget years. This concept is similar to cap banking under the municipal and county appropriations cap law (N.J.S.A.40A:4-45.1 et seq.). Cap banking was also authorized under the statutes which established the formula for the calculation of a school district's spending growth limitation, which

was last operative in the 2006-2007 school year, and which is being repealed under this bill as the tax levy growth limitation becomes the permanent mechanism to calculate school district tax levy increases.

The bill also deletes language in current law in order to eliminate a levy cap penalty that occurs when a county or municipality acts responsibly to reduce its debt servicing expenditures.

The reduction in the property tax levy cap would be applicable to the local budget year next following enactment of the bill, and the opportunity to bank any unused portion of the allowable increase would commence in that local budget year so that any unused portion of the current 4 percent levy cap would not be available to be banked.

The current levy cap, enacted in 2007, has been effective in holding down the rate of property tax increases. According to the information posted on the Division of Local Government Services website, the average municipal property tax bill rose 3.7% from 2007 to 2008 and 3.3% from 2008 to 2009. The tightening of the existing levy cap laws will act to further control such increases.

FISCAL IMPACT:

The OLS estimates that the new local property tax cap may result in lower property tax levies, that would otherwise occur under existing law, by indeterminate amounts. The OLS notes that local budgetary decisions that determine annual changes in local property tax levies are affected by multiple factors, such as the provisions of labor contracts, costs of good and services, levels of local non-property tax revenues, debt service requirements, and the number of pupils required to be educated by local school districts. It is reasonable to conclude that a decrease in the amount that the tax levy is permitted to increase from year-to-year may comprise greater restraints on annual property tax increases than the restraints under current law, but it is not feasible to estimate the degree to which this is the case, or to quantify the amount by which future property levies would be lowered by the effect of the lower caps and the provisions permitting the use of cap “banking”.



# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 29

### STATE OF NEW JERSEY 214th LEGISLATURE

DATED: JULY 14, 2010

#### SUMMARY

- Synopsis:** Reduces school district, county, and municipal property tax levy cap from 4 percent to 2.0 percent and permits unused school district, county, and municipal increases to be banked for three succeeding years.
- Type of Impact:** Possible decrease in local property tax levy rate of increase. Indeterminate potential increase in costs incurred by the State and certain local units.
- Agencies Affected:** Departments of Education and Community Affairs, counties, municipalities, local school districts, and special taxing districts.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate Potential Increase – See comments below		
<b>Local Cost</b>	Indeterminate Potential Increase – See comments below		
<b>Local Property Tax Levies</b>	Indeterminate Potential Restraint of Growth Rates – See comments below		

- The Office of Legislative Services (OLS) estimates that the new property tax growth limit may result in lower local property tax levies than would otherwise occur under existing law, by indeterminate amounts. Local budgetary decisions that determine annual changes in local property tax levies are affected by multiple factors. Accordingly, it is reasonable to conclude that a reduction in the amount that the tax levy is permitted to increase from year-to-year will comprise greater restraints on annual property tax increases than under the current 4 percent limit.
- Local units and school districts may incur additional costs if they decide to submit a public question to the voters to exceed the allowable tax levy. However, the costs of conducting an election vary depending on a variety of factors, including the size of the voting area (i.e., municipality) and the number of election districts.

- The State may incur additional costs to the extent that it is required to reimburse a county governing body for any costs incurred due to the implementation of P.L.2001, c.245, which increased the required compensation to be paid to district board members who serve at an election and extended the hours polling places are open.

## **BILL DESCRIPTION**

Senate Bill No. 29 (1R) of 2010 reduces the tax levy cap for school districts, counties, municipalities, fire districts, and solid waste collection districts from the currently permitted 4 percent annual increase to a 2.0 percent permitted annual increase. The bill also establishes the tax levy cap as the permanent mechanism for the calculation of the maximum allowable increase in property taxes that may occur between budget years. Under existing law, the 2007 tax levy cap is scheduled to expire June 30, 2012. Senate Bill No. 29 (1R) requires local units and school districts to submit a public question to the voters if the local unit or school district seeks to exceed the allowable tax levy cap. The public question must be approved by more than 50 percent of the people voting on the question.

The bill eliminates the ability of certain local units to apply to the Local Finance Board for any waiver to authorize exceeding the tax levy cap and the ability of school districts to request levy waivers from the Commissioner of Education. The bill also deletes language in current law in order to eliminate a tax levy cap penalty that occurs when a county or municipality acts responsibly to reduce its debt servicing expenditures.

As amended, the bill narrows the exclusions that may be added to the calculation of the adjusted tax levy to the following: capital expenditures, including debt service, (for local units); increases in pension contributions and accrued liability for pension contributions in excess of 2.0 percent; certain increases in health care costs greater than 2.0 percent; and extraordinary costs incurred by a local unit directly related to a declared emergency as defined by regulation. In the case of school districts, the bill narrows the adjustments that may be applied to a school district's tax levy by the elimination of the allowable adjustment for a reduction in State aid. A school district's tax levy may continue to be adjusted to reflect increases in enrollment, and may also be adjusted to reflect increases in health care costs and certain pension contributions greater than 2 percent. As under current law, tax levy raised for school district debt service payments is not included in the calculation of a school district's adjusted tax levy.

The bill would also permit levy cap "banking" of any portion of the permitted 2.0 percent increase under the property tax levy cap that is not used by a county or municipality in any budget year. In the case of a school district, it would allow cap banking of any portion of the permitted 2.0 percent increase plus applicable adjustments not used by the school district in a budget year. This concept is similar to cap banking under the municipal and county appropriations cap law (N.J.S.A.40A:4-45.1 et seq.). Cap banking was also authorized under the statutes which establish the formula for the calculation of a school district's spending growth limitation, which was last operative in the 2006-2007 school year, and which is being repealed under this bill as the tax levy growth limitation becomes the permanent mechanism to calculate school district tax levy increases.

The reduction in the property tax levy cap would be applicable to the local budget year next following the enactment of the bill, and the opportunity to bank any unused portion of the allowable increase would commence in that local budget year so that any unused portion of the current 4 percent levy cap would not be available to be banked.

**FISCAL ANALYSIS*****EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the new local property tax cap may result in lower property tax levy increases, than would otherwise occur under existing law, by indeterminate amounts. The OLS notes that local budgetary decisions that determine annual changes in local property tax levies are affected by multiple factors, such as the provisions of labor contracts, costs of goods and services, levels of local non-property tax revenues, debt service requirements, and the number of pupils required to be educated by local school districts. It is reasonable to conclude that a reduction in the amount that the tax levy is permitted to increase from year-to-year may comprise greater restraints on annual property levy tax increases than the restraints under current law, but it is not feasible to estimate the degree to which this is the case, or to quantify the amount by which future property levies would be lowered by the effect of the lower caps and the provisions permitting the use of “cap banking.”

The OLS notes that those school districts and local units that decide to submit a public question to the voters requesting their permission to increase the amount to be raised by taxation beyond the 2.0 percent cap will incur additional costs associated with conducting an additional election. Election expenses vary depending on the size and number of election districts in the voting area. For example, according to the Division of Elections in the Department of State, in 2009 a municipal election in the Borough of Island Heights, which has 2 election districts, cost \$4,000 while a municipal election in the Township of Stafford, which has 20 election districts cost \$40,000. Other factors that influence election costs include the printing and transmitting of sample ballots, absentee ballots and ballots for voting machines; transporting election machines to polling stations; payments to election workers; and, where necessary, security for voting machines.

The State may incur additional costs to the extent that it is required to expend funds in addition to those appropriated by the Fiscal Year 2011 Appropriations Act to reimburse a county governing body for any costs incurred due to the implementation of P.L.2001, c.245. This statute increased the required compensation to be paid to district board members who serve at an election from \$75 to \$200 and extended the hours polling places are open from 7:00 A.M.-8:00 P.M. to 6:00 A.M.-8:00 P.M. The State is required to reimburse counties for the \$125 difference between the old pay rate and the current pay rate. The Fiscal Year 2011 budget appropriates \$7.030 million for extended polling place hours.

*Section:* Local Government

*Analyst:* Scott A. Brodsky  
Associate Fiscal Analyst

*Approved:* David J. Rosen  
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 3065

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 24, 2010

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman PETER J. BARNES, III**

**District 18 (Middlesex)**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman JOHN S. WISNIEWSKI**

**District 19 (Middlesex)**

**SYNOPSIS**

Reduces school district, county, and municipal property tax levy cap from 4% to 2.9% and permits unused school district, county, and municipal increases to be banked for three succeeding years.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/29/2010)**

1 AN ACT concerning the calculation of the local tax levy cap and  
2 revising parts of the statutory law.

3

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

6

7 1. Section 1 of P.L.2009, c.80 (C.18A:6-114) is amended to  
8 read as follows:

9 1. a. In counties in which there is located a municipality that  
10 had a population of 60,000 persons or more, as reported in the latest  
11 federal decennial census published prior to the enactment of this  
12 act, the board of education of each district that is a district factor  
13 group A or B school district that also is a kindergarten through  
14 grade 12 district with a concentration of at-risk pupils greater than  
15 40%, in conjunction with the local governing body of the  
16 municipality in which the district is located, shall develop a plan for  
17 a comprehensive program of after school activities for students  
18 enrolled in the district.

19 b. The plan shall include, but need not be limited to, the  
20 following:

21 (1) the goals and objectives of the program and the ways in  
22 which it will serve the needs and interests of the students in the  
23 district;

24 (2) a detailed description of the recreational, academic and civic  
25 enrichment activities that will be offered pursuant to the program;

26 (3) the background and qualifications of personnel who will  
27 direct and supervise the program;

28 (4) a schedule of the days and hours during which the program  
29 will operate;

30 (5) the criteria which will be utilized to determine eligibility for  
31 student participation in the program;

32 (6) an estimate of the number of students who will be served by  
33 the program;

34 (7) an estimate of the overall cost of the program and the  
35 amount of general fund tax levy required to be raised by the district  
36 to support the program; and

37 (8) any other information which the board determines to be  
38 necessary.

39 c. After the plan has been developed, the board of education, in  
40 conjunction with the local governing body, shall conduct two public  
41 hearings to receive community input on the plan.

42 d. After the plan for the comprehensive program of after school  
43 activities has been adopted by resolution of the board of education,  
44 the amount of any additional general fund tax levy required to be  
45 raised by the district to implement the program required pursuant to

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

**Matter underlined thus is new matter.**

1 this act shall be submitted to the voters of the district or the board  
2 of school estimate, as appropriate; except that the amount of any  
3 additional general fund tax levy shall not exceed \$2,000,000. If  
4 approved by the voters or the board of school estimate, the amount  
5 so approved shall be assessed, levied and collected in the manner  
6 provided by law. If the voters or the board of school estimate does  
7 not approve the additional general fund tax levy, the district shall  
8 not be required to implement the plan developed pursuant to this  
9 act.

10 e. Any additional general fund tax levy raised to implement the  
11 comprehensive program of after school activities established  
12 pursuant to this act shall not be used to supplant State or local funds  
13 allocated to support after school programs operated by the district  
14 as of the effective date of this act.

15 f. Amounts raised for the comprehensive program of after  
16 school activities established pursuant to this act shall be accounted  
17 for in a special revenue fund and used solely for the purposes of the  
18 program.

19 g. The amount of any additional general fund tax levy raised in  
20 any budget year pursuant to subsection d. of this section shall be an  
21 adjustment to the district's tax levy growth limitation as calculated  
22 pursuant to section 3 of P.L.2007, c.62 (C.18A:7F-38) [or the  
23 district's spending growth limitation as calculated pursuant to  
24 section 5 of P.L.1996, c.138 (C.18A:7F-5), as applicable].  
25 (cf: P.L.2009, c.80, s.1)  
26

27 2. N.J.S.18A:7-8 is amended to read as follows:

28 18A:7-8. Each executive county superintendent shall:

29 a. Visit and examine from time to time all of the schools under  
30 his general supervision and exercise general supervision over them  
31 in accordance with the rules prescribed from time to time by the  
32 State board;

33 b. Keep himself informed as to the management, methods of  
34 instruction and discipline and the courses of study and textbooks in  
35 use, the condition of the school libraries, and the condition of the  
36 real and personal property, particularly in respect to the  
37 construction, heating, ventilation and lighting of school buildings,  
38 in the local districts under his general supervision, and make  
39 recommendations in connection therewith;

40 c. Advise with and counsel the boards of education of the local  
41 districts under his general supervision and of any other district of  
42 the county when so requested, in relation to the performance of  
43 their duties;

44 d. Promote administrative and operational efficiencies and cost  
45 savings within the school districts in the county while ensuring that  
46 the districts provide a thorough and efficient system of education;

47 e. Based on standards adopted by the commissioner,  
48 recommend to the commissioner, who is hereby granted the

- 1 authority to effectuate those recommendations, that certain school  
2 districts be required to enter arrangements with one or more other  
3 school districts or educational services commissions for the  
4 consolidation of the district's administrative services;
- 5 f. Recommend to the commissioner the elimination of laws the  
6 executive county superintendent determines to be unnecessary State  
7 education mandates, other than the categories of laws set forth in  
8 section 3 of P.L.1996, c.24 (C.52:13H-3);
- 9 g. Eliminate districts located in the county that are not  
10 operating schools on the effective date of P.L.2009, c.78 (C.18A:8-  
11 43 et al.), in accordance with a plan and schedule included in the  
12 plan submitted to and approved by the commissioner;
- 13 h. No later than three years following the effective date of  
14 sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), recommend  
15 to the commissioner a school district consolidation plan to eliminate  
16 all districts, other than county-based districts and other than  
17 preschool or kindergarten through grade 12 districts in the county,  
18 through the establishment or enlargement of regional school  
19 districts. After the approval of the plan by the commissioner, the  
20 executive county superintendent shall require each board of  
21 education covered by a proposal in the plan to conduct a special  
22 school election, at a time to be determined by the executive county  
23 superintendent, and submit thereat the question whether or not the  
24 executive county superintendent's proposal for the regionalization  
25 of the school district shall be adopted. The question shall be  
26 deemed adopted if it receives a vote in accordance with the  
27 provisions of N.J.S.18A:13-5. If the question is adopted by the  
28 voters, then the regional district shall be established or enlarged in  
29 accordance with chapter 13 of Title 18A of the New Jersey Statutes;
- 30 i. Promote coordination and regionalization of pupil  
31 transportation services through means such as reviewing bus routes  
32 and schedules of school districts and nonpublic schools within the  
33 county;
- 34 j. Review and approve, according to standards adopted by the  
35 commissioner, all employment contracts for superintendents of  
36 schools, assistant superintendents of schools, and school business  
37 administrators in school districts within the county, prior to the  
38 execution of those contracts;
- 39 k. Request the commissioner to order a forensic audit and to  
40 select an auditor for any school district in the county upon the  
41 determination by the executive county superintendent, according to  
42 standards adopted by the commissioner, that the accounting  
43 practices in the district necessitate such an audit;
- 44 l. Review all school budgets of the school districts within the  
45 county, and may, pursuant to section 5 of P.L.1996, c.138  
46 (C.18A:7F-5), disapprove a portion of a school district's proposed  
47 budget if he determines that the district has not implemented all  
48 potential efficiencies in the administrative operations of the district

1 or if he determines that the budget includes excessive non-  
2 instructional expenses. If the executive county superintendent  
3 disapproves a portion of the school district's budget pursuant to this  
4 paragraph, the school district shall deduct the disapproved amounts  
5 from the budget prior to publication of the budget, and during the  
6 budget year the school district shall not transfer funds back into  
7 those accounts;

8 m. **【**Permit a district to submit to the voters a separate proposal  
9 or proposals for additional funds pursuant to paragraph (9) of  
10 subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), only if:  
11 (1) the district provides the executive county superintendent with  
12 written documentation that the district has made efforts to enter into  
13 shared arrangements with other districts, municipalities, counties,  
14 and other units of local government for the provision of  
15 administrative, business, purchasing, public and nonpublic  
16 transportation, and other required school district services; (2) the  
17 district certifies and provides written documentation that the district  
18 participates in on-going shared arrangements; or (3) the district  
19 certifies and provides written documentation that entering such  
20 shared arrangements would not result in cost savings or would  
21 result in additional expenses for the district;**】** (Deleted by  
22 amendment, P.L. , c. ) (pending before the Legislature as this  
23 bill)

24 n. Promote cooperative purchasing within the county of  
25 textbooks and other instructional materials;

26 o. Coordinate with the Department of Education to maintain a  
27 real time Statewide and district-wide database that tracks the types  
28 and capacity of special education programs being implemented by  
29 each district and the number of students enrolled in each program to  
30 identify program availability and needs;

31 p. Coordinate with the Department of Education to maintain a  
32 Statewide and district-wide list of all special education students  
33 served in out-of-district programs and a list of all public and private  
34 entities approved to receive special education students that includes  
35 pertinent information such as audit results and tuition charges;

36 q. Serve as a referral source for districts that do not have  
37 appropriate in-district programs for special education students and  
38 provide those districts with information on placement options in  
39 other school districts;

40 r. Conduct regional planning and identification of program  
41 needs for the development of in-district special education programs;

42 s. Serve as a liaison to facilitate shared special education  
43 services within the county including, but not limited to direct  
44 services, personnel development, and technical assistance;

45 t. Work with districts to develop in-district special education  
46 programs and services including providing training in inclusive  
47 education, positive behavior supports, transition to adult life, and  
48 parent-professional collaboration;



1 u. Provide assistance to districts in budgetary planning for  
2 resource realignment and reallocation to direct special education  
3 resources into the classroom;

4 v. Report on a regular basis to the commissioner on progress in  
5 achieving the goal of increasing the number of special education  
6 students educated in appropriate programs with non-disabled  
7 students;

8 w. Render a report to the commissioner annually on or before  
9 September 1, in the manner and form prescribed by him, of such  
10 matters relating to the schools under his jurisdiction as the  
11 commissioner shall require; and

12 x. Perform such other duties as shall be prescribed by law.

13 Any budgetary action of the executive county superintendent  
14 under this section may be appealed directly to the commissioner,  
15 who shall render a decision within 15 days of the receipt of the  
16 appeal. If the commissioner fails to issue a decision within 15 days  
17 of the filing of an appeal, the budgetary action of the executive  
18 county superintendent shall be deemed approved. The  
19 commissioner shall by regulation establish a procedure for such  
20 appeals.

21 Nothing in this section shall be construed or interpreted to  
22 contravene or modify the provisions of the "New Jersey Employer-  
23 Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), or  
24 to limit or restrict the scope of negotiations as provided pursuant to  
25 law, or to require an employer to enter into a subcontracting  
26 agreement which affects the employment of any employee in a  
27 collective bargaining unit represented by a majority representative  
28 during the time that an existing collective bargaining agreement  
29 with the majority representative is in effect.

30 Nothing in this section is intended to interfere with a school  
31 district's ability to provide a thorough and efficient education.  
32 (cf: P.L.2009, c.78, s.10)

33

34 3. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to  
35 read as follows:

36 5. As used in this section, "cost of living" means the CPI as  
37 defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

38 a. Within 30 days following the approval of the Educational  
39 Adequacy Report, the commissioner shall notify each district of the  
40 base per pupil amount, the per pupil amounts for full-day preschool,  
41 the weights for grade level, county vocational school districts, at-  
42 risk pupils, bilingual pupils, and combination pupils, the cost  
43 coefficients for security aid and for transportation aid, the State  
44 average classification rate and the excess cost for general special  
45 education services pupils, the State average classification rate and  
46 the excess cost for speech-only pupils, and the geographic cost  
47 adjustment for each of the school years to which the report is  
48 applicable.

1       Annually, within two days following the transmittal of the State  
2 budget message to the Legislature by the Governor pursuant to  
3 section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner  
4 shall notify each district of the maximum amount of aid payable to  
5 the district in the succeeding school year pursuant to the provisions  
6 of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each  
7 district of the district's adequacy budget for the succeeding school  
8 year.

9       For the 2008-2009 school year and thereafter, unless otherwise  
10 specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts  
11 payable for the budget year shall be based on budget year pupil  
12 counts, which shall be projected by the commissioner using data  
13 from prior years. Adjustments for the actual pupil counts of the  
14 budget year shall be made to State aid amounts payable during the  
15 school year succeeding the budget year. Additional amounts  
16 payable shall be reflected as revenue and an account receivable for  
17 the budget year.

18       Notwithstanding any other provision of this act to the contrary,  
19 each district's State aid payable for the 2008-2009 school year, with  
20 the exception of aid for school facilities projects, shall be based on  
21 simulations employing the various formulas and State aid amounts  
22 contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The  
23 commissioner shall prepare a report dated December 12, 2007  
24 reflecting the State aid amounts payable by category for each  
25 district and shall submit the report to the Legislature prior to the  
26 adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as  
27 otherwise provided pursuant to this subsection and paragraph (3) of  
28 subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the  
29 amounts contained in the commissioner's report shall be the final  
30 amounts payable and shall not be subsequently adjusted other than  
31 to reflect the phase-in of the required general fund local levy  
32 pursuant to paragraph (4) of subsection b. of section 16 of  
33 P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to  
34 which a district may be entitled pursuant to section 20 of that act.  
35 The projected pupil counts and equalized valuations used for the  
36 calculation of State aid shall also be used for the calculation of  
37 adequacy budget, local share, and required local share. For 2008-  
38 2009, extraordinary special education State aid shall be included as  
39 a projected amount in the commissioner's report dated December  
40 12, 2007 pending the final approval of applications for the aid. If  
41 the actual award of extraordinary special education State aid is  
42 greater than the projected amount, the district shall receive the  
43 increase in the aid payable in the subsequent school year pursuant  
44 to the provisions of subsection c. of section 13 of P.L.2007, c.260  
45 (C.18A:7F-55). If the actual award of extraordinary special  
46 education State aid is less than the projected amount, other State aid  
47 categories shall be adjusted accordingly so that the district shall not  
48 receive less State aid than as provided in accordance with the

1 provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47  
2 and C.18A:7F-58).

3 In the event that the commissioner determines, following the  
4 enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the  
5 issuance of State aid notices for the 2008-2009 school year, that a  
6 significant district-specific change in data warrants an increase in  
7 State aid for that district, the commissioner may adjust the State aid  
8 amount provided for the district in the December 12, 2007 report to  
9 reflect the increase.

10 b. Each district shall have a required local share. For districts  
11 that receive educational adequacy aid pursuant to subsection b. of  
12 section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local  
13 share shall be calculated in accordance with the provisions of that  
14 subsection.

15 For all other districts, the required local share shall equal the  
16 lesser of the local share calculated at the district's adequacy budget  
17 pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the  
18 district's budgeted local share for the prebudget year.

19 In order to meet this requirement, each district shall raise a  
20 general fund tax levy which equals its required local share.

21 No municipal governing body or bodies or board of school  
22 estimate, as appropriate, shall certify a general fund tax levy which  
23 does not meet the required local share provisions of this section.

24 c. Annually, on or before March 4, each district board of  
25 education shall adopt, and submit to the commissioner for approval,  
26 together with such supporting documentation as the commissioner  
27 may prescribe, a budget that provides for a thorough and efficient  
28 education. Notwithstanding the provisions of this subsection to the  
29 contrary, the commissioner may adjust the date for the submission  
30 of district budgets if the commissioner determines that the  
31 availability of preliminary aid numbers for the subsequent school  
32 year warrants such adjustment.

33 Notwithstanding any provision of this section to the contrary, for  
34 the 2005-2006 school year each district board of education shall  
35 submit a proposed budget in which the advertised per pupil  
36 administrative costs do not exceed the lower of the following:

37 (1) the district's advertised per pupil administrative costs for the  
38 2004-2005 school year inflated by the cost of living or 2.5 percent,  
39 whichever is greater; or

40 (2) the per pupil administrative cost limits for the district's  
41 region as determined by the commissioner based on audited  
42 expenditures for the 2003-2004 school year.

43 The executive county superintendent of schools may disapprove  
44 the school district's 2005-2006 proposed budget if he determines  
45 that the district has not implemented all potential efficiencies in the  
46 administrative operations of the district. The executive county  
47 superintendent shall work with each school district in the county  
48 during the 2004-2005 school year to identify administrative

1 inefficiencies in the operations of the district that might cause the  
2 superintendent to reject the district's proposed 2005-2006 school  
3 year budget.

4 For the 2006-2007 school year and each school year thereafter,  
5 each district board of education shall submit a proposed budget in  
6 which the advertised per pupil administrative costs do not exceed  
7 the lower of the following:

8 (1) the district's prior year per pupil administrative costs; except  
9 that the district may submit a request to the commissioner for  
10 approval to exceed the district's prior year per pupil administrative  
11 costs due to increases in enrollment, administrative positions  
12 necessary as a result of mandated programs, administrative  
13 vacancies, nondiscretionary fixed costs, and such other items as  
14 defined in accordance with regulations adopted pursuant to section  
15 7 of P.L.2004, c.73. In the event that the commissioner approves a  
16 district's request to exceed its prior year per pupil administrative  
17 costs, the increase authorized by the commissioner shall not exceed  
18 the cost of living or 2.5 percent, whichever is greater; or

19 (2) the prior year per pupil administrative cost limits for the  
20 district's region inflated by the cost of living or 2.5 percent,  
21 whichever is greater.

22 d. (1) A district shall submit, as appropriate, to the board of  
23 school estimate or to the voters of the district at the annual school  
24 budget election conducted pursuant to the provisions of P.L.1995,  
25 c.278 (C.19:60-1 et al.), a general fund tax levy which [when added  
26 to the other components of its net budget] does not exceed the  
27 [prebudget year net budget by more than the spending growth  
28 limitation calculated as follows: the sum of the cost of living or 2.5  
29 percent, whichever is greater, multiplied by the prebudget year net  
30 budget, and adjustments for changes in enrollment, certain capital  
31 outlay expenditures, expenditures for pupil transportation services  
32 provided pursuant to N.J.S.18A:39-1.1, expenditures incurred in  
33 connection with the opening of a new school facility during the  
34 budget year, and special education costs per pupil in excess of  
35 \$40,000. The adjustment for special education costs shall equal any  
36 increase in the sum of per pupil amounts in excess of \$40,000 for  
37 the budget year less the sum of per pupil amounts in excess of  
38 \$40,000 for the prebudget year indexed by the cost of living or 2.5  
39 percent, whichever is greater. The adjustment for enrollments shall  
40 equal the increase in weighted resident enrollments between the  
41 prebudget year and budget year multiplied by the per pupil general  
42 fund tax levy amount for the prebudget year indexed by the cost of  
43 living or 2.5 percent, whichever is greater. The adjustment for  
44 capital outlay shall equal any increase between the capital outlay  
45 portion of the general fund budget for the budget year less any  
46 withdrawals from the capital reserve account and the capital outlay  
47 portion of the general fund budget for the prebudget year indexed  
48 by the cost of living or 2.5 percent, whichever is greater. Any

1 district with a capital outlay adjustment to its spending growth  
2 limitation shall be restricted from transferring any funds from  
3 capital outlay accounts to current expense accounts. The  
4 adjustment for capital outlay shall not become part of the prebudget  
5 year net budget for purposes of calculating the spending growth  
6 limitation of the subsequent year. The adjustment for pupil  
7 transportation costs provided pursuant to N.J.S.18A:39-1.1 shall  
8 equal any increase between the cost of providing such pupil  
9 transportation services for the budget year and the cost of providing  
10 such pupil transportation services for the prebudget year indexed by  
11 the cost of living or 2.5 percent, whichever is greater. The  
12 adjustment for the opening of a new school facility shall include  
13 costs associated with the new facility related to new teaching staff  
14 members, support staff, materials and equipment, custodial and  
15 maintenance expenditures, and such other required costs as  
16 determined by the commissioner] district's adjusted tax levy as  
17 calculated pursuant to sections 3 and 4 of P.L.2007, c.62  
18 (C.18A:7F-38 and 18A:7F-39).

19 (2) (Deleted by amendment, P.L.2007, c.260).

20 (3) (Deleted by amendment, P.L.2007, c.260).

21 (4) Any debt service payment made by a school district during  
22 the budget year shall not be included in the calculation of the  
23 district's **[**spending growth limitation] adjusted tax levy.

24 (5) (Deleted by amendment, P.L.2007, c.260).

25 (6) (Deleted by amendment, P.L.2007, c.260).

26 (7) (Deleted by amendment, P.L.2004, c.73).

27 (8) **[**If an increase in tuition for the budget year charged to a  
28 sending district by the receiving district pursuant to the provisions  
29 of N.J.S.18A:38-19 would reduce the sending district's per pupil net  
30 budget amount below the prior year's per pupil net budget amount  
31 in order to comply with the district's spending growth limitation, the  
32 district may apply to the commissioner for an adjustment to that  
33 limitation.] (Deleted by amendment, P.L. ., c. ) (pending before  
34 the Legislature as this bill)

35 (9) **[**Any district may submit at the annual school budget  
36 election a separate proposal or proposals for additional funds,  
37 including interpretive statements, specifically identifying the  
38 program purposes for which the proposed funds shall be used, to the  
39 voters, who may, by voter approval, authorize the raising of an  
40 additional general fund tax levy for such purposes. In the case of a  
41 district with a board of school estimate, one proposal for the  
42 additional spending shall be submitted to the board of school  
43 estimate. Any proposal or proposals submitted to the voters or the  
44 board of school estimate shall not: include any programs and  
45 services that were included in the district's prebudget year net  
46 budget unless the proposal is approved by the commissioner upon  
47 submission by the district of sufficient reason for an exemption to

1 this requirement; or include any new programs and services  
2 necessary for students to achieve the thoroughness standards  
3 established pursuant to subsection a. of section 4 of P.L.2007, c.260  
4 (C.18A:7F-46).

5 The executive county superintendent of schools may prohibit the  
6 submission of a separate proposal or proposals to the voters or  
7 board of school estimate if he determines that the district has not  
8 implemented all potential efficiencies in the administrative  
9 operations of the district, which efficiencies would eliminate the  
10 need for the raising of additional general fund tax levy.

11 Except as otherwise provided pursuant to paragraph (3) of  
12 subsection c. of section 4 of P.L.2007, c.62 (C.18A:7F-39), any  
13 proposal or proposals rejected by the voters shall be submitted to  
14 the municipal governing body or bodies for a determination as to  
15 the amount, if any, that should be expended notwithstanding voter  
16 rejection. The decision of the municipal governing body or bodies  
17 or board of school estimate, as appropriate, shall be final and no  
18 appeals shall be made to the commissioner. ~~(Deleted by~~  
19 amendment, P.L. , c. ) (pending before the Legislature as this  
20 bill)

21 (10) Notwithstanding any provision of law to the contrary, if a  
22 district proposes a budget with a general fund tax levy and  
23 equalization aid which exceed the adequacy budget, the following  
24 statement shall be published in the legal notice of public hearing on  
25 the budget pursuant to N.J.S.18A:22-28, posted at the public  
26 hearing held on the budget pursuant to N.J.S.18A:22-29, and  
27 printed on the sample ballot required pursuant to section 10 of  
28 P.L.1995, c.278 (C.19:60-10):

29 "Your school district has proposed programs and services in  
30 addition to the core curriculum content standards adopted by the  
31 State Board of Education. Information on this budget and the  
32 programs and services it provides is available from your local  
33 school district."

34 (11) Any reduction that may be required to be made to programs  
35 and services included in a district's prebudget year net budget in  
36 order for the district to limit the growth in its budget between the  
37 prebudget and budget years by its ~~spending~~ tax levy growth  
38 limitation as calculated pursuant to ~~this subsection~~ sections 3 and  
39 4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39), shall only  
40 include reductions to excessive administration or programs and  
41 services that are inefficient or ineffective.

42 e. (1) Any general fund tax levy rejected by the voters for a  
43 proposed budget that includes a general fund tax levy and  
44 equalization aid in excess of the adequacy budget shall be submitted  
45 to the governing body of each of the municipalities included within  
46 the district for determination of the amount that should be expended  
47 notwithstanding voter rejection. In the case of a district having a  
48 board of school estimate, the general fund tax levy shall be

1 submitted to the board for determination of the amount that should  
2 be expended. If the governing body or bodies or board of school  
3 estimate, as appropriate, reduce the district's proposed budget, the  
4 district may appeal any of the reductions to the commissioner on the  
5 grounds that the reductions will negatively impact on the stability of  
6 the district given the need for long term planning and budgeting. In  
7 considering the appeal, the commissioner shall consider enrollment  
8 increases or decreases within the district; the history of voter  
9 approval or rejection of district budgets; the impact on the local  
10 levy; and whether the reductions will impact on the ability of the  
11 district to fulfill its contractual obligations. A district may not  
12 appeal any reductions on the grounds that the amount is necessary  
13 for a thorough and efficient education.

14 (2) Any general fund tax levy rejected by the voters for a  
15 proposed budget that includes a general fund tax levy and  
16 equalization aid at or below the adequacy budget shall be submitted  
17 to the governing body of each of the municipalities included within  
18 the district for determination of the amount that should be expended  
19 notwithstanding voter rejection. In the case of a district having a  
20 board of school estimate, the general fund tax levy shall be  
21 submitted to the board for determination. Any reductions may be  
22 appealed to the commissioner on the grounds that the amount is  
23 necessary for a thorough and efficient education or that the  
24 reductions will negatively impact on the stability of the district  
25 given the need for long term planning and budgeting. In  
26 considering the appeal, the commissioner shall also consider the  
27 factors outlined in paragraph (1) of this subsection.

28 In addition, the municipal governing body or board of school  
29 estimate shall be required to demonstrate clearly to the  
30 commissioner that the proposed budget reductions shall not  
31 adversely affect the ability of the school district to provide a  
32 thorough and efficient education or the stability of the district given  
33 the need for long term planning and budgeting.

34 (3) In lieu of any budget reduction appeal provided for pursuant  
35 to paragraphs (1) and (2) of this subsection, the State board may  
36 establish pursuant to the "Administrative Procedure Act," P.L.1968,  
37 c.410 (C.52:14B-1 et seq.), an expedited budget review process  
38 based on a district's application to the commissioner for an order to  
39 restore a budget reduction.

40 (4) When the voters, municipal governing body or bodies, or the  
41 board of school estimate authorize the general fund tax levy, the  
42 district shall submit the resulting budget to the commissioner within  
43 15 days of the action of the voters or municipal governing body or  
44 bodies, whichever is later, or of the board of school estimate as the  
45 case may be.

46 f. (Deleted by amendment, P.L.2007, c.260).

47 g. (Deleted by amendment, P.L.2007, c.260).

48 (cf: P.L.2007, c.260, s.28)

1       4. Section 4 of P.L.1998, c.55 (C.18A:7F-5.2) is amended to  
2 read as follows:

3       4. a. Proceeds from the sale and lease-back of textbooks and  
4 non-consumable instructional materials shall not be considered  
5 miscellaneous local general fund revenue for the purpose of  
6 calculating the net budget [or the spending growth limitation under  
7 P.L.1996, c.138 (C.18A:7F-1 et seq.)].

8       b. A board of education may establish a reserve account in the  
9 general fund with all or a part of the proceeds from the sale and  
10 lease-back of textbooks and non-consumable instructional materials  
11 provided that subsequent appropriations from the reserve account  
12 shall only be made within the original budget certified for taxes or  
13 as approved by the commissioner for good cause.  
14 (cf: P.L.1998, c.55, s.4)

15  
16       5. Section 3 of P.L.2007, c.62 (C.18A:7F-38) is amended to  
17 read as follows:

18       3. a. (1) Notwithstanding the provisions of any other law to the  
19 contrary, a school district shall not adopt a budget pursuant to  
20 sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6)  
21 with an increase in its adjusted tax levy that exceeds, except as  
22 provided in subsection e. of section 4 of P.L.2007, c.62 (C.18A:7F-  
23 39), the tax levy growth limitation calculated as follows: the sum of  
24 the prebudget year adjusted tax levy and the adjustment for  
25 increases in enrollment multiplied by [four] 2.9 percent, and  
26 adjustments for a reduction in total unrestricted State aid from the  
27 prebudget year, an increase in health care costs, beginning in the  
28 2008-2009 school year, amounts approved by a waiver granted by  
29 the commissioner pursuant to section 4 of P.L.2007, c.62  
30 (C.18A:7F-39), and, for the 2010-2011 school year, increases in  
31 amounts for certain normal and accrued liability pension  
32 contributions set forth in sections 1 and 2 of P.L.2009, c.19  
33 amending section 24 of P.L.1954, c.84 (C.43:15A-24) and section  
34 15 of P.L.1944, c.255 (C.43:16A-15) for the year set forth in those  
35 sections.

36       (2) Notwithstanding any provision of paragraph (1) of this  
37 subsection to the contrary, beginning in the 2008-2009 school year  
38 the tax levy growth limitation for a district which is spending above  
39 adequacy as determined pursuant to subsection d. of section 5 of  
40 P.L.2007, c.260 (C.18A:7F-47) and has a prebudget year general  
41 fund tax levy greater than its local share as calculated pursuant to  
42 section 10 of that act and which receives an increase in State aid  
43 between the prebudget and budget years that is greater than 2% or  
44 the CPI, whichever is greater, shall be reduced by the amount of the  
45 State aid increase that exceeds 2% or the CPI, whichever is greater.  
46 For the purposes of this paragraph, the CPI shall not exceed 4%.  
47 The reduction shall be made following the calculation of any  
48 adjustments for increases in enrollment, a reduction in total



1 unrestricted State aid, an increase in health care costs, and an  
2 increase in the amount of the normal and accrued liability pension  
3 contributions calculated pursuant to subsections b., c., and d. of this  
4 section and prior to the request or approval of waivers pursuant to  
5 section 4 of P.L.2007, c.62 (C.18A:7F-39). In the event that the  
6 reduction would bring the district's spending below adequacy,  
7 notwithstanding the requirements of this paragraph to the contrary  
8 the amount of the reduction made to the district's tax levy growth  
9 limitation shall not be greater than the amount that brings the  
10 district's spending to adequacy.

11 b. (1) The allowable adjustment for increases in enrollment  
12 authorized pursuant to subsection a. of this section shall equal the  
13 per pupil prebudget year adjusted tax levy multiplied by EP, where  
14 EP equals the sum of:

15 (a) 0.50 for each unit of weighted resident enrollment that  
16 constitutes an increase from the prebudget year over 1%, but not  
17 more than 2.5%;

18 (b) 0.75 for each unit of weighted resident enrollment that  
19 constitutes an increase from the prebudget year over 2.5%, but not  
20 more than 4%; and

21 (c) 1.00 for each unit of weighted resident enrollment that  
22 constitutes an increase from the prebudget year over 4%.

23 (2) A school district may request approval from the  
24 commissioner to calculate EP equal to 1.00 for any increase in  
25 weighted resident enrollment if it can demonstrate that the  
26 calculation pursuant to paragraph (1) of this subsection would result  
27 in an average class size that exceeds 10% above the facilities  
28 efficiency standards established pursuant to P.L.2000, c.72  
29 (C.18A:7G-1 et al.).

30 c. The allowable adjustment for a reduction in total  
31 unrestricted State aid authorized pursuant to subsection a. of this  
32 section shall equal any reduction in total unrestricted State aid from  
33 the prebudget to the budget year.

34 d. (1) The allowable adjustment for increases in health care  
35 costs authorized pursuant to subsection a. of this section shall equal  
36 that portion of the actual increase in total health care costs for the  
37 budget year, less any withdrawals from the current expense  
38 emergency reserve account for increases in total health care costs,  
39 that exceeds **[four]** 2.9 percent of the total health care costs in the  
40 prebudget year, but that is not in excess of the product of the total  
41 health care costs in the prebudget year multiplied by the average  
42 percentage increase of the State Health Benefits Program, P.L.1961,  
43 c.49 (C.52:14-17.25 et seq.), as annually determined by the  
44 Division of Pensions and Benefits in the Department of the  
45 Treasury.

46 (2) The allowable adjustment for increases in the amount of  
47 normal and accrued liability pension contributions authorized  
48 pursuant to subsection a. of this section shall equal that portion of

1 the actual increase in total normal and accrued liability pension  
2 contributions for the budget year that exceeds **[four]** 2.9 percent of  
3 the total normal and accrued liability pension contributions in the  
4 prebudget year.

5 e. In addition to the adjustments authorized pursuant to  
6 subsection a. of this section, for the purpose of determining a school  
7 district's allowable tax levy growth limitation for the 2007-2008  
8 school year, a school district may apply to the commissioner for an  
9 adjustment for increases in special education costs over \$40,000 per  
10 pupil, increases in tuition, capital outlay increases, and incremental  
11 increases in costs for opening a new school facility in the budget  
12 year.

13 (1) The allowable adjustment for increases in special education  
14 costs over \$40,000 per pupil shall equal any increase in the sum of  
15 per pupil amounts in excess of \$40,000 for the budget year less the  
16 sum of per pupil amounts in excess of \$40,000 for the prebudget  
17 year indexed by four percent.

18 (2) The allowable adjustment for increases in tuition shall equal  
19 any increase in the tuition for the budget year charged to a sending  
20 district by the receiving district pursuant to the provisions of  
21 N.J.S.18A:38-19 or charged by a county vocational school district  
22 pursuant to the provisions of section 71 of P.L.1990, c.52  
23 (C.18A:54-20.1) less 104 percent of the tuition for the prebudget  
24 year charged to a sending district by the receiving district pursuant  
25 to the provisions of N.J.S.18A:38-19 or charged by a county  
26 vocational school district pursuant to the provisions of section 71 of  
27 P.L.1990, c.52 (C.18A:54-20.1).

28 (3) The allowable adjustment for increases in capital outlay  
29 shall equal any increase in capital outlay, less any withdrawals from  
30 the capital reserve account, over the prebudget year in excess of  
31 four percent.

32 f. The adjusted tax levy shall be increased or decreased  
33 accordingly whenever the responsibility and associated cost of a  
34 school district activity is transferred to another school district or  
35 governmental entity.

36 (cf: P.L.2009, c.19, s.3)

37

38 6. Section 4 of P.L.2007, c.62 (C.18A:7F-39) is amended to  
39 read as follows:

40 4. a. (1) Beginning in the 2008-2009 school year, a school  
41 district may request approval from the commissioner for a waiver to  
42 increase its adjusted tax levy by more than the allowable amount  
43 authorized in section 3 of P.L.2007, c.62 (C.18A:7F-38) to address  
44 **[extraordinary costs which may include, but not be limited to:**

45 **(a)]** a district's failure to meet the core curriculum content  
46 standards as determined through the New Jersey Quality Single  
47 Accountability Continuum. Prior to full implementation of  
48 NJQSAC, such determination shall be based on a school district's

- 1 status under the "No Child Left Behind Act of 2001," Pub.L. 107-  
2 110. The commissioner shall approve the increase only if the  
3 district satisfactorily demonstrates that the increase will be used to  
4 implement or expand programs or services to address the causes of  
5 the district's failure to meet the core curriculum content standards or  
6 other performance indicators as determined through NJQSAC [;
- 7 (b) energy cost increases over the prebudget year in excess of  
8 four percent;
- 9 (c) capital outlay increases, less any withdrawals from the  
10 capital reserve account, over the prebudget year in excess of four  
11 percent;
- 12 (d) the appropriation of non-recurring general fund revenues in  
13 the prebudget year original budget, including the appropriation of  
14 surplus;
- 15 (e) increases in insurance costs over the prebudget year in  
16 excess of four percent;
- 17 (f) increases in transportation costs required to service  
18 hazardous routes over the prebudget year in excess of four percent;
- 19 (g) increases in special education costs that exceed \$40,000 per  
20 each special education pupil over the prebudget year in excess of  
21 four percent;
- 22 (h) increases in tuition costs charged to a sending district by the  
23 receiving district pursuant to the provisions of N.J.S.18A:38-19  
24 over the prebudget year in excess of four percent or charged by a  
25 county vocational school district pursuant to the provisions of  
26 section 71 of P.L.1990, c.52 (C.18A:54-20.1) over the prebudget  
27 year in excess of four percent; and
- 28 (i) incremental increases in costs associated with opening a new  
29 school facility in the budget year].
- 30 (2) A waiver request shall be submitted at least five working  
31 days prior to the required budget submission dates established  
32 pursuant to sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and  
33 18A:7F-6) in a form required by the commissioner, as appropriate,  
34 and shall include such information and documentation as the  
35 commissioner deems necessary.
- 36 (3) In considering a waiver request, in addition to the authority  
37 granted to the commissioner pursuant to section 6 of P.L.1996,  
38 c.138 (C.18A:7F-6), the commissioner shall have the power to  
39 make budgetary reallocations up to the total amount of the waiver  
40 request. The commissioner shall not reduce or reallocate any line  
41 item accounts that will impact the district's ability to meet the core  
42 curriculum content standards and provide a thorough and efficient  
43 education.
- 44 (4) A waiver approval shall specify whether the adjusted tax  
45 levy increase shall be limited to the budget year or added to the  
46 adjusted tax levy as a permanent increase.
- 47 (5) Any decision of the commissioner as to the entitlement of  
48 any school district to an increase of its adjusted tax levy pursuant to

1 this section shall be final and conclusive, and no appeal or review  
2 shall be taken therefrom [; except that the matter may be put before  
3 the voters pursuant to subsection c. of this section].

4 b. (1) The commissioner may direct a school district to increase  
5 specific line item expenditure accounts, for specific purposes, to  
6 address low achievement or the causes of the district's failure to  
7 meet the core curriculum content standards as determined through  
8 NJQSAC, or prior to full implementation of NJQSAC, as  
9 determined based on a school district's status under the "No Child  
10 Left Behind Act of 2001," Pub.L.107-110.

11 (2) The commissioner is authorized to approve a school district  
12 budget with an increase in its adjusted tax levy by more than the  
13 allowable amount authorized pursuant to section 3 of P.L.2007, c.62  
14 (C.18A:7F-38), up to the amount required to support the increase in  
15 expenditure accounts as directed in paragraph (1) of this subsection.

16 c. [For the 2007-2008 school year, or for the 2008-2009  
17 through 2011-2012 school years if a waiver requested pursuant to  
18 subsection a. of this section fails to be approved by the  
19 commissioner or if the school district elects not to request a waiver,  
20 the school district may submit to the voters at the April school  
21 election, or on such other date as is set by regulation of the  
22 commissioner, a proposal or proposals to increase the tax levy by  
23 more than the allowable amount authorized pursuant to section 3 of  
24 P.L.2007, c.62 (C.18A:7F-38). The proposal or proposals to  
25 increase the tax levy shall be approved if a majority of people  
26 voting at the April 2007 school election vote in the affirmative, or if  
27 60 percent of the people voting at the April 2008 through April  
28 2011 school elections vote in the affirmative. In the case of a  
29 school district with a board of school estimate, the additional tax  
30 levy shall be authorized only if a quorum is present for the vote and  
31 a majority of those board members who are present vote in the  
32 affirmative to authorize the additional tax levy.

33 (1) A proposal or proposals submitted to the voters or the board  
34 of school estimate to increase the tax levy pursuant to this  
35 subsection shall not include any programs or services necessary for  
36 students to achieve the core curriculum content standards.

37 (2) All proposals to increase the tax levy submitted pursuant to  
38 this subsection shall include interpretive statements specifically  
39 identifying the program purposes for which the proposed funds  
40 shall be used and a clear statement on whether approval will affect  
41 only the current year or result in a permanent increase in the levy.  
42 The proposals shall be submitted and approved pursuant to sections  
43 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6).

44 (3) For only the 2007-2008 school budget year, any proposal or  
45 proposals rejected by the voters shall be submitted to the municipal  
46 governing body or bodies for a determination as to the amount, if  
47 any, that should be expended notwithstanding voter rejection. The  
48 decision of the municipal governing body or bodies or board of

1 school estimate, as appropriate, shall be final and no appeals shall  
2 be made to the commissioner. ] (Deleted by amendment, P.L. \_\_\_\_\_,  
3 c. ) (pending before the Legislature as this bill)

4 d. The commissioner shall have the authority to grant  
5 additional waivers, applicable to all or some school districts, as  
6 determined by the commissioner, and only effective for the school  
7 budget year in which the waiver is granted, upon a finding of  
8 extraordinary circumstances that result in an unanticipated increase  
9 in expenditures for a service essential to the health, safety and  
10 welfare of the school children of the State.

11 e. A school district that has not been granted approval for a  
12 waiver pursuant to this section, may add to its adjusted tax levy in  
13 any one of the next three succeeding budget years, the amount of  
14 the difference between the maximum allowable amount to be raised  
15 by taxation for the current school budget year and the actual amount  
16 to be raised by taxation for the current school budget year.

17 (cf: P.L.2007, c.62, s.4)

18

19 7. Section 3 of P.L.2007, c.260 (C.18A:7F-45) is amended to  
20 read as follows:

21 3. As used in this act and P.L.1996, c.138, unless the context  
22 clearly requires a different meaning:

23 "At-risk pupils" means those resident pupils from households  
24 with a household income at or below the most recent federal  
25 poverty guidelines available on October 15 of the prebudget year  
26 multiplied by 1.85;

27 "Base per pupil amount" means the cost per elementary pupil of  
28 delivering the core curriculum content standards and extracurricular  
29 and cocurricular activities necessary for a thorough and efficient  
30 education;

31 "Bilingual education pupil" means a resident pupil enrolled in a  
32 program of bilingual education or in an English as a second  
33 language program approved by the State Board of Education;

34 "Budgeted local share" means the district's local tax levy  
35 contained in the budget certified for taxation purposes;

36 "Capital outlay" means capital outlay as defined in GAAP;

37 "Combination pupil" means a resident pupil who is both an at-  
38 risk pupil and a bilingual education pupil;

39 "Commissioner" means the Commissioner of Education;

40 "Concentration of at-risk pupils" shall be based on prebudget  
41 year pupil data and means, for a school district or a county  
42 vocational school district, the number of at-risk pupils among those  
43 counted in resident enrollment, divided by resident enrollment;

44 "County special services school district" means any entity  
45 established pursuant to article 8 of chapter 46 of Title 18A of the  
46 New Jersey Statutes;

1 "County vocational school district" means any entity established  
2 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey  
3 Statutes;

4 "CPI" means the increase, expressed as a decimal, in the average  
5 annualized consumer price index for the New York City and  
6 Philadelphia areas in the fiscal year preceding the prebudget year  
7 relative to the previous fiscal year as reported by the United States  
8 Department of Labor;

9 "Debt service" means payments of principal and interest upon  
10 school bonds and other obligations issued to finance the purchase or  
11 construction of school facilities, additions to school facilities, or the  
12 reconstruction, remodeling, alteration, modernization, renovation or  
13 repair of school facilities, including furnishings, equipment,  
14 architect fees, and the costs of issuance of such obligations and  
15 shall include payments of principal and interest upon bonds  
16 heretofore issued to fund or refund such obligations, and upon  
17 municipal bonds and other obligations which the commissioner  
18 approves as having been issued for such purposes;

19 "District income" means the aggregate income of the residents of  
20 the taxing district or taxing districts, based upon data provided by  
21 the Division of Taxation in the New Jersey Department of the  
22 Treasury and contained on the New Jersey State Income Tax forms  
23 for the calendar year ending two years prior to the prebudget year.  
24 The commissioner may supplement data contained on the State  
25 Income Tax forms with data available from other State or federal  
26 agencies in order to better correlate the data to that collected on the  
27 federal census. With respect to regional districts and their  
28 constituent districts, however, the district income as described  
29 above shall be allocated among the regional and constituent districts  
30 in proportion to the number of pupils resident in each of them;

31 "Equalized valuation" means the equalized valuation of the  
32 taxing district or taxing districts, as certified by the Director of the  
33 Division of Taxation on October 1, or subsequently revised by the  
34 tax court by January 15, of the prebudget year. With respect to  
35 regional districts and their constituent districts, however, the  
36 equalized valuations as described above shall be allocated among  
37 the regional and constituent districts in proportion to the number of  
38 pupils resident in each of them. In the event that the equalized table  
39 certified by the director shall be revised by the tax court after  
40 January 15 of the prebudget year, the revised valuations shall be  
41 used in the recomputation of aid for an individual school district  
42 filing an appeal, but shall have no effect upon the calculation of the  
43 property value rate, Statewide average equalized school tax rate, or  
44 Statewide equalized total tax rate;

45 "Full-day preschool" means a preschool day consisting of a six-  
46 hour comprehensive educational program in accordance with the  
47 district's kindergarten through grade 12 school calendar;

1 "GAAP" means the generally accepted accounting principles  
2 established by the Governmental Accounting Standards Board as  
3 prescribed by the State board pursuant to N.J.S.18A:4-14;

4 "General special education services pupil" means a pupil  
5 receiving specific services pursuant to chapter 46 of Title 18A of  
6 the New Jersey Statutes;

7 "Geographic cost adjustment" means an adjustment that reflects  
8 county differences in the cost of providing educational services that  
9 are outside the control of the district;

10 "Household income" means income as defined in 7 CFRss.245.2  
11 and 245.6 or any subsequent superseding federal law or regulation;

12 "Net budget" means the sum of the district's general fund tax  
13 levy, State aid received pursuant to the provisions of this act other  
14 than preschool education aid, miscellaneous revenue estimated  
15 pursuant to GAAP, and designated general fund balance;

16 "Prebudget year" means the school fiscal year preceding the year  
17 in which the school budget is implemented;

18 "Nonpreschool ECPA" means the amount of early childhood  
19 program aid, excluding prior year carry-forward amounts, included  
20 in a district's 2007-2008 school year budget certified for taxes that  
21 was allocated to grades K through 3;

22 "Report" means the Educational Adequacy Report issued by the  
23 commissioner pursuant to section 4 of this act;

24 "Resident enrollment" means the number of pupils other than  
25 preschool pupils, post-graduate pupils, and post-secondary  
26 vocational pupils who, on the last school day prior to October 16 of  
27 the current school year, are residents of the district and are enrolled  
28 in: (1) the public schools of the district, excluding evening schools,  
29 (2) another school district, other than a county vocational school  
30 district in the same county on a full-time basis, or a State college  
31 demonstration school or private school to which the district of  
32 residence pays tuition, or (3) a State facility in which they are  
33 placed by the district; or are residents of the district and are: (1)  
34 receiving home instruction, or (2) in a shared-time vocational  
35 program and are regularly attending a school in the district and a  
36 county vocational school district. In addition, resident enrollment  
37 shall include the number of pupils who, on the last school day prior  
38 to October 16 of the prebudget year, are residents of the district and  
39 in a State facility in which they were placed by the State. Pupils in  
40 a shared-time vocational program shall be counted on an equated  
41 full-time basis in accordance with procedures to be established by  
42 the commissioner. Resident enrollment shall include regardless of  
43 nonresidence, the enrolled children of teaching staff members of the  
44 school district or county vocational school district who are  
45 permitted, by contract or local district policy, to enroll their  
46 children in the educational program of the school district or county  
47 vocational school district without payment of tuition. Disabled  
48 children between three and five years of age and receiving programs

1 and services pursuant to N.J.S.18A:46-6 shall be included in the  
2 resident enrollment of the district;

3 "School district" means any local or regional school district  
4 established pursuant to chapter 8 or chapter 13 of Title 18A of the  
5 New Jersey Statutes;

6 ["Spending growth limitation" means the annual rate of growth  
7 permitted in the net budget of a school district, county vocational  
8 school district, or county special services school district as  
9 measured between the net budget of the prebudget year and the net  
10 budget of the budget year as calculated pursuant to the provisions of  
11 section 5 of P.L.1996, c.138 (C.18A:7F-5);]

12 "State facility" means a State developmental center, a State  
13 Division of Youth and Family Services' residential center, a State  
14 residential mental health center, a Department of Children and  
15 Families Regional Day School, a State training school/secure care  
16 facility, a State juvenile community program, a juvenile detention  
17 center or a boot camp under the supervisory authority of the  
18 Juvenile Justice Commission pursuant to P.L.1995, c.284  
19 (C.52:17B-169 et seq.), or an institution operated by or under  
20 contract with the Department of Corrections, Children and Families  
21 or Human Services, or the Juvenile Justice Commission;

22 "Statewide equalized school tax rate" means the amount  
23 calculated by dividing the general fund tax levy for all school  
24 districts, which excludes county vocational school districts and  
25 county special services school districts as defined pursuant to this  
26 section, in the State for the prebudget year by the equalized  
27 valuations certified in the year prior to the prebudget year of all  
28 taxing districts in the State except taxing districts for which there  
29 are not school tax levies;

30 "Tax levy growth limitation" means the permitted annual  
31 increase in the adjusted tax levy for a school district as calculated  
32 pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and  
33 18A:7F-39).

34 (cf: P.L.2007, c.260, s.3)

35

36 8. N.J.S.18A:20-4.2 is amended to read as follows:

37 18A:20-4.2. The board of education of any school district may,  
38 for school purposes:

39 (a) Purchase, take and condemn lands within the district and  
40 lands not exceeding 50 acres in extent without the district but  
41 situate in a municipality or municipalities adjoining the district, but  
42 no more than 25 acres may be so acquired in any one such  
43 municipality, without the district, except with the consent, by  
44 ordinance, of such municipality;

45 (b) Grade, drain and landscape lands owned or to be acquired by  
46 it and improve the same in like manner;

47 (c) Erect, lease for a term not exceeding 50 years, enlarge,  
48 improve, repair or furnish buildings;



1 (d) Borrow money therefor, with or without mortgage; in the  
2 case of a type II district without a board of school estimate, when  
3 authorized so to do at any annual or special school election; and in  
4 the case of a type II district having a board of school estimate, when  
5 the amount necessary to be provided therefor shall have been fixed,  
6 determined and certified by the board of school estimate; and in the  
7 case of a type I district, when an ordinance authorizing expenditures  
8 for such purpose is finally adopted by the governing body of a  
9 municipality comprised within the district; provided, however, that  
10 no such election shall be held nor shall any such resolution of a  
11 school estimate board or ordinance of a municipal governing body  
12 be introduced to authorize any lease of any building for a term  
13 exceeding one year, until the proposed terms of such lease have  
14 been reviewed and approved by the Commissioner of Education and  
15 the Local Finance Board in the Department of Community Affairs;

16 (e) Construct, purchase, lease or otherwise acquire a building  
17 with the federal government, the State, a political subdivision  
18 thereof or any other individual or entity properly authorized to do  
19 business in the State; provided that: (1) the noneducational uses of  
20 the building are compatible with the establishment and operation of  
21 a school, as determined by the Commissioner of Education; (2) the  
22 portion of the building to be used as a school meets regulations of  
23 the Department of Education; (3) the board of education has  
24 complied with the provisions of law and regulations relating to the  
25 selection and approval of sites; and (4) in the case of a lease, that  
26 any lease in excess of five years shall be approved by the  
27 Commissioner of Education and the Local Finance Board in the  
28 Department of Community Affairs;

29 (f) Acquire, with the approval of either the commissioner, or  
30 voters or board of school estimate, as applicable, improvements or  
31 additions to school buildings through lease purchase agreements not  
32 in excess of five years. The agreement shall be recorded as an  
33 expenditure of the General Fund of the district. The commissioner  
34 shall approve the agreement only upon a demonstration by the  
35 district that the lease purchase payments and any operating  
36 expenses related to the agreement can be included within the  
37 district's [net budget spending growth limitation and will not result  
38 in the need for approval by the voters or board of school estimate,  
39 as appropriate, of additional spending proposals to maintain  
40 existing instructional programs and extracurricular activities] tax  
41 levy growth limitation. If the commissioner cannot approve the  
42 agreement, the board of education may frame a separate question to  
43 authorize the lease purchase agreement and obtain voter or board of  
44 school estimate approval to enter into the agreement. A district  
45 may, without separate prior approval of the commissioner, also  
46 acquire equipment through a lease purchase agreement not in excess  
47 of five years or in the case of a lease purchase agreement entered  
48 into for the acquisition of school buses not in excess of 10 years,

1 provided that the amount of the first installment and each  
2 subsequent installment for the lease purchase payments is included  
3 in the budget that is advertised and submitted for approval to the  
4 voters of the district or the board of school estimate, as appropriate.  
5 As used herein, a "lease purchase agreement" refers to any  
6 agreement which gives the board of education as lessee the option  
7 of purchasing the leased equipment or improvements or additions to  
8 existing school buildings during or upon termination of the lease,  
9 with credit toward the purchase price of all or part of rental  
10 payments which have been made by the board of education in  
11 accordance with the lease. As part of such a transaction, the board  
12 of education may transfer or lease land or rights in land, including  
13 any building thereon, after publicly advertising for proposals for the  
14 transfer for nominal or fair market value, to the party selected by  
15 the board of education, by negotiation or otherwise, after  
16 determining that the proposal is in the best interest of the taxpayers  
17 of the district, to construct or to improve and to lease or to own or  
18 to have ownership interests in the site and the school building to be  
19 leased pursuant to such lease purchase agreement, notwithstanding  
20 the provisions of any other law to the contrary. The land and any  
21 building thereon which is described in a lease purchase agreement  
22 entered into pursuant to this amendatory act, shall be deemed to be  
23 and treated as property of the school district, used for school  
24 purposes pursuant to R.S.54:4-3.3, and shall not be considered or  
25 treated as property leased to another whose property is not exempt,  
26 and shall not be assessed as real estate pursuant to section 1 of  
27 P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement  
28 authorized by this section shall contain a provision making  
29 payments thereunder subject to the annual appropriation of funds  
30 sufficient to meet the required payments or shall contain an annual  
31 cancellation clause and shall require all construction contracts let by  
32 public school districts or let by developers or owners of property  
33 used for school purposes to be competitively bid, pursuant to  
34 N.J.S.18A:18A-1 et seq.;

35 (g) Establish with an individual or entity authorized to do  
36 business in the State a tenancy in common, condominium,  
37 horizontal property regime or other joint ownership arrangement on  
38 a site contributed by the school district; provided the following  
39 conditions are met:

40 (1) The individual or entity agrees to construct on the site, or  
41 provide for the construction thereon, a building or buildings for use  
42 of the board of education separately or jointly with the individual or  
43 entity, which shall be subject to the joint ownership arrangement;

44 (2) The provision of the building shall be at no cost or at a  
45 reduced cost to the board of education;

46 (3) The school district shall not make any payment for use of the  
47 building other than its pro rata share of costs of maintenance and  
48 improvements;

1 (4) The noneducational uses of the building are compatible with  
2 the establishment and operation of a school, as determined by the  
3 Commissioner of Education;

4 (5) The portion of the building to be used as a school, and the  
5 site, meet regulations of the Department of Education; and

6 (6) Any such agreement shall be approved by the Commissioner  
7 of Education and the Local Finance Board in the Department of  
8 Community Affairs;

9 (h) Acquire through sale and lease-back textbooks and non-  
10 consumable instructional materials provided that the sale price and  
11 principal amount of the lease-back do not exceed the fair market  
12 value of the textbooks and instructional materials and that the  
13 interest rate applied in the lease-back is consistent with prevailing  
14 market rates or is less.

15 (cf: P.L.2001, c.146, s.1)

16  
17 9. Section 9 of P.L.2007, c.62 (C.40A:4-45.44) is amended to  
18 read as follows:

19 9. For the purposes of sections 9 through 13 of P.L.2007, c.62  
20 (C.40A:4-45.44 through C.40A:4-45.47 and C.40A:4-45.3e):

21 "Adjusted tax levy" means an amount not greater than the  
22 amount to be raised by taxation of the previous fiscal year, less any  
23 waivers from a prior fiscal year required to be deducted by the  
24 Local Finance Board pursuant to section 11 of P.L.2007, c.62  
25 (C.40A:4-45.46), that result multiplied by **[1.04]** 1.029, to which  
26 the sum of exclusions defined in subsection b. of section 10 of  
27 P.L.2007, c.62 (C.40A:4-45.45) shall be added.

28 "Amount to be raised by taxation" means the property tax levy  
29 set in the annual budget of a local unit.

30 "Local unit" means a municipality, county, fire district, or solid  
31 waste collection district, but shall not include a municipality that  
32 had a municipal purposes tax rate of \$0.10 or less per \$100 for the  
33 previous tax year.

34 "New ratables" means the product of the taxable value of any  
35 new construction or improvements times the tax rate of a local unit  
36 for its previous tax year.

37 (cf: P.L.2007, c.62, s.9)

38  
39 10. Section 10 of P.L.2007, c.62 (C.40A:4-45.45) is amended to  
40 read as follows:

41 10. a. (1) In the preparation of its budget the amount to be  
42 raised by taxation by a local unit shall not exceed, except as  
43 provided in paragraph (2) of this subsection, the sum of new  
44 ratables, the adjusted tax levy, and the total of waivers approved  
45 pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46); provided,  
46 however, that in the case of a county, the amount to be raised by  
47 taxation shall not exceed the amount permitted by section 4 of  
48 P.L.1976, c.68 (C.40A:4-45.4).

1       (2) A local unit that has not been granted approval for a waiver  
2 pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46), may add  
3 to its adjusted tax levy in any one of the next three succeeding  
4 years, the amount of the difference between the maximum  
5 allowable amount to be raised by taxation or county purposes tax,  
6 as applicable, for the current local budget year pursuant to  
7 paragraph (1) of this subsection and the actual amount to be raised  
8 by taxation or county purposes tax, as applicable, for the current  
9 local budget year.

10       b. The following exclusions shall be added to the calculation of  
11 the adjusted tax levy:

12       (1) increases in amounts required to be raised for (a) all debt  
13 service and (b) lease payments with county improvement authorities  
14 pursuant to leases in effect on the effective date of P.L.2007, c.62  
15 (C.18A:7F-37 et al.);

16       (2) increases in amounts required to be raised to replace State  
17 formula aid due to a reduction in State formula aid from the  
18 previous local budget year;

19       (3) increases in amounts for certain pension contributions set  
20 forth in section 5 of P.L.2003, c.108 (C.40A:4-45.43) for the years  
21 set forth in that section;

22       (4) with respect to municipalities, any increase, greater than  
23 **[four]** 2.9 percent, in the reserve for uncollected taxes that is  
24 required by law;

25       (5) increases in health care costs equal to that portion of the  
26 actual increase in total health care costs for the budget year that is  
27 in excess of **[four]** 2.9 percent of the total health care costs in the  
28 prior year, but is not in excess of the product of the total health care  
29 costs in the prior year and the average percentage increase of the  
30 State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et  
31 seq.), as annually determined by the Division of Pensions and  
32 Benefits in the Department of the Treasury;

33       (6) increases in amounts for certain normal and accrued liability  
34 pension contributions set forth in sections 1 and 2 of P.L.2009, c.19  
35 amending section 24 of P.L.1954, c.84 (C.43:15A-24) and section  
36 15 of P.L.1944, c.255 (C.43:16A-15) equal to that portion of the  
37 actual increase in normal and accrued liability pension contributions  
38 for the budget year that is in excess of **[four]** 2.9 percent of the  
39 normal and accrued liability pension contributions in the prior year.

40       **[Notwithstanding the other provisions of this subsection, when**  
41 **the appropriation for all debt service is less than the amount**  
42 **appropriated for all debt service in the prior fiscal year, the amount**  
43 **of the difference shall be deducted from the sum of the exclusions**  
44 **listed in paragraphs (1) through (6) of this subsection.]** If there are  
45 no exclusions, then the amount of the difference shall reduce the  
46 adjusted tax levy by that amount. Any cancelled or unexpended  
47 appropriation for any exclusion pursuant to this subsection or

1 waiver pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46),  
2 also shall be deducted from the sum of the exclusions listed in  
3 paragraphs (1) through (6) or directly reduce the adjusted tax levy if  
4 there are no exclusions.

5 (cf: P.L.2009, c.19, s.4)

6

7 11. Section 11 of P.L.2007, c.62 (C.40A:4-45.46) is amended to  
8 read as follows:

9 11. a. The governing body of a local unit may request approval  
10 from the Local Finance Board in the Department of Community  
11 Affairs for a waiver to increase its amount to be raised by taxes to  
12 address extraordinary costs[, which may include but not be limited  
13 to:

14 (1) increases in appropriations for capital lease payments;

15 (2) energy cost increases in excess of four percent;

16 (3) increases in insurance costs over the prebudget year in  
17 excess of four percent;

18 (4) offsetting the loss of a non-recurring general fund revenue or  
19 surplus;

20 (5) total net expenditures for new mandated services or net  
21 expenditure increases above four percent for the cost of those  
22 services that are mandated by any order of court, by any federal or  
23 State statute, or by administrative rule, directive, order, or other  
24 legally binding device issued by a State agency which has identified  
25 such cost as mandated expenditures on certification to the Local  
26 Finance Board by the State agency; and

27 (6) for any purpose related to the provision of government  
28 services that the board deems essential to protect [or promote] the  
29 public health, safety, or welfare.

30 Amounts raised pursuant to a waiver granted pursuant to this  
31 subsection shall be included in the calculation of the adjusted tax  
32 levy in a subsequent year, unless otherwise required by the waiver.

33 Any decision of the Local Finance Board as to the entitlement of  
34 any local unit to a tax levy cap increase under this section shall be  
35 final and conclusive, and no appeal or review shall be taken  
36 therefrom; provided, however, that the matter may be put before the  
37 voters pursuant to subsection b. of this section.

38 b. [(1) Notwithstanding subsection a. of this section, the  
39 governing body of a local unit may request approval, through a  
40 public question submitted to the legal voters residing in its territory  
41 to increase the amount to be raised by taxation by more than the  
42 allowable adjusted tax levy. Approval shall be by an affirmative  
43 vote of 60 percent or more of the people voting on the question at  
44 the election. The local unit budget proposing the increase shall be  
45 introduced and approved in the manner otherwise provided for  
46 budgets of that local unit at least 20 days prior to the date on which  
47 the referendum is to be held, and shall be published in the manner  
48 otherwise provided for budgets of the local unit at least 12 days

1 prior to the referendum date, unless otherwise directed by the  
2 Director of the Division of Local Government Services in the  
3 Department of Community Affairs.

4 (2) The public question to be submitted to the voters at the  
5 referendum shall state only the amount by which the adjusted tax  
6 levy shall be increased by more than the otherwise allowable  
7 adjusted tax levy, and the percentage rate of increase which that  
8 amount represents over the allowable adjusted tax levy. The public  
9 question shall include an accompanying explanatory statement that  
10 identifies the changes in appropriations or revenues that warranted  
11 the governing body's decision to ask the public question; or, in the  
12 alternative and subject to the approval of the Director of the  
13 Division of Local Government Services in the Department of  
14 Community Affairs, a clear and concise narrative explanation of the  
15 circumstances for the increased adjusted tax levy being proposed.

16 (3) Unless otherwise provided pursuant to section 1 of P.L.1989,  
17 c.31 (C.40A:4-5.1), a referendum conducted pursuant to this  
18 subsection shall be held:

19 (a) for calendar year budgets only on the fourth Tuesday in  
20 January and the second Tuesday in March other than in a year when  
21 a presidential primary election occurs, in which case no such  
22 election on that date may be called; and

23 (b) for fiscal year budgets, only the last Tuesday in September,  
24 or the second Tuesday in December;  
25 provided, however, that no referendum shall be held on the same  
26 day as a referendum to exceed the school district levy cap.

27 (4) Any decision of the voters rejecting an increase to the tax  
28 levy cap under this subsection shall be final and conclusive, and no  
29 appeal or review shall be taken therefrom and no waiver application  
30 shall be made to the Local Finance Board.

31 (5) The director is authorized to act as necessary in order to  
32 consolidate ballot questions and procedures when a governing body  
33 elects to hold a referendum under both this section and section 9 of  
34 P.L.1983, c.49 (C.40A:4-45.16). 】 (Deleted by amendment, P.L. ,  
35 c. ) (pending before the Legislature as this bill)

36 c. The Local Finance Board shall have the authority to grant  
37 additional waivers, applicable to all or some local units, as  
38 determined by the board, and only effective for the local budget  
39 year in which the waiver is granted, upon a finding of extraordinary  
40 circumstances that result in an unanticipated increase in  
41 expenditures for a service essential to the health, safety, and welfare  
42 of the residents of the State.

43 d. The adjusted tax levy shall be increased or decreased  
44 accordingly whenever the responsibility and associated cost of an  
45 activity performed by a local unit is transferred to or from a local  
46 unit, other government entity, or other service provider.

47 (cf: P.L.2007, c.62, s.11)

1       12. Section 47 of P.L.2007, c.62 is amended to read as follows:  
2       47. This act shall take effect immediately; provided, however,  
3       【sections 2 through 12 shall be applicable only to budget years  
4       beginning on or after July 1, 2007, and shall not be applicable to  
5       budget years beginning after June 30, 2012;】 section 13 shall be  
6       retroactive to July 1, 2006, 【and shall not be applicable to budget  
7       years beginning after June 30, 2012;】 and sections 19 through 40  
8       shall first apply to claims for rebates and credits for property taxes  
9       paid for the tax year 2006.

10

11       13. The following sections are repealed:  
12       Section 36 of P.L.2000, c.126 (C.18A:7F-5a);  
13       Section 3 of P.L.2003, c.92 (C.18A:7F-5b);  
14       Section 1 of P.L.1997, c.232 (C.18A:7F-5.1);  
15       Section 5 of P.L.2007, c.62 (C.18A:7F-40);  
16       Section 17 of P.L.2007, c.260 (C.18A:7F-59).

17

18       14. This act shall take effect immediately and shall be applicable  
19       to the next local budget year following enactment.

20

21

22

#### STATEMENT

23

24       This bill reduces the tax levy cap for school districts, counties,  
25       municipalities, fire districts, and solid waste collection districts  
26       from the currently permitted 4% annual increase to a 2.9%  
27       permitted annual increase. The bill also establishes the tax levy cap  
28       as the permanent mechanism for the calculation of the maximum  
29       allowable increase in property taxes that may occur between budget  
30       years. Under existing law, the 2007 tax levy cap law is scheduled  
31       to expire June 30, 2012.

32

33       The bill narrows the purposes for which waivers to authorize the  
34       raising of additional tax levy may be requested from the Local  
35       Finance Board to only those purposes related to the provision of  
36       government services that the board deems essential to protect the  
37       public health, safety, or welfare. In the case of school districts, a  
38       waiver may only be requested from the Commissioner of Education  
39       for a district's failure to meet the core curriculum content standards  
40       (thorough and efficient). The bill also eliminates the ability of a  
41       local unit or a school district to submit a public question to the  
42       voters to exceed the allowable tax levy.

42

43       The bill would also permit levy cap "banking" of any portion of  
44       the permitted 2.9% increase under the property tax levy cap that is  
45       not used by a county or municipality in any budget year. In the  
46       case of a school district it would allow cap banking of any portion  
47       of the permitted 2.9% increase plus applicable adjustments not used  
48       by the school district in a budget year. Under current law, if a  
49       county, municipality, or school district does not use the entire 4%

1 increase, perhaps because it uses surplus that year to keep tax rates  
2 steady, the difference is lost. This can be a problem in a succeeding  
3 tax year if circumstances require an unexpected increase in  
4 expenditures to maintain services. Under the bill, the cap is being  
5 reduced, but any unused permissible increase amount under the  
6 reduced levy cap limit could be used in any one of the next three  
7 succeeding budget years. This concept is similar to cap banking  
8 under the municipal and county appropriations cap law  
9 (N.J.S.A.40A:4-45.1 et seq.). Cap banking was also authorized  
10 under the statutes which established the formula for the calculation  
11 of a school district's spending growth limitation, which was last  
12 operative in the 2006-2007 school year, and which is being repealed  
13 under this bill as the tax levy growth limitation becomes the  
14 permanent mechanism to calculate school district tax levy increases.

15 The bill also deletes language in current law in order to eliminate  
16 a levy cap penalty that occurs when a county or municipality acts  
17 responsibly to reduce its debt servicing expenditures.

18 The reduction in the property tax levy cap would be applicable to  
19 the local budget year next following enactment of the bill, and the  
20 opportunity to bank any unused portion of the allowable increase  
21 would commence in that local budget year so that any unused  
22 portion of the current 4 percent levy cap would not be available to  
23 be banked.

24 The current levy cap, enacted in 2007, has been effective in  
25 holding down the rate of property tax increases. According to the  
26 information posted on the Division of Local Government Services  
27 website, the average municipal property tax bill rose 3.7% from  
28 2007 to 2008 and 3.3% from 2008 to 2009. The tightening of the  
29 existing levy cap laws will act to further control such increases.



# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3065

# STATE OF NEW JERSEY

DATED: JUNE 24, 2010

The Assembly Budget Committee reports favorably Assembly Bill No. 3065.

This bill reduces the tax levy cap for school districts, counties, municipalities, fire districts, and solid waste collection districts from the currently permitted 4% annual increase to a 2.9% permitted annual increase. The bill also establishes the tax levy cap as the permanent mechanism for the calculation of the maximum allowable increase in the tax levy for local units and school districts that may occur between budget years. Under existing law, the 2007 tax levy cap law is scheduled to expire June 30, 2012.

The bill narrows the purposes for which waivers to authorize the raising of additional tax levy may be requested from the Local Finance Board to only those purposes related to the provision of government services that the board deems essential to protect the public health, safety, or welfare. In the case of school districts, a waiver may only be requested from the Commissioner of Education for a district's failure to meet the core curriculum content standards (thorough and efficient). The bill also eliminates the ability of a local unit or a school district to submit a separate public question to the voters to authorize the raising of additional tax levy.

The bill would also permit levy cap "banking" of any portion of the permitted 2.9% increase under the property tax levy cap that is not used by a county or municipality in any budget year. In the case of a school district it would allow cap banking of any portion of the permitted 2.9% increase plus applicable adjustments not used by the school district in a budget year. Under current law, if a county, municipality, or school district does not use the entire 4% increase, perhaps because it uses surplus that year to keep tax rates steady, the difference is lost. This can be a problem in a succeeding tax year if circumstances require an unexpected increase in expenditures to maintain services. Under the bill, the cap is being reduced, but any unused permissible increase amount under the reduced levy cap limit could be used in any one of the next three succeeding budget years. This concept is similar to cap banking under the municipal and county appropriations cap law (N.J.S.A.40A:4-45.1 et seq.). Cap banking was also authorized under the statutes which established the formula for the calculation of a school district's spending growth limitation, which

was last operative in the 2006-2007 school year, and which is being repealed under this bill as the tax levy growth limitation becomes the permanent mechanism to calculate school district tax levy increases.

The bill also deletes language in current law in order to eliminate a levy cap penalty that occurs when a county or municipality acts responsibly to reduce its debt servicing expenditures.

The reduction in the property tax levy cap would be applicable to the local budget year next following enactment of the bill, and the opportunity to bank any unused portion of the allowable increase would commence in that local budget year so that any unused portion of the current 4 percent levy cap would not be available to be banked.

The current levy cap, enacted in 2007, has been effective in holding down the rate of property tax increases. According to the information posted on the Division of Local Government Services website, the average municipal property tax bill rose 3.7% from 2007 to 2008 and 3.3% from 2008 to 2009. The tightening of the existing levy cap laws will act to further control such increases.

FISCAL IMPACT:

The OLS estimates that the new local property tax cap may result in lower property tax levies, that would otherwise occur under existing law, by indeterminate amounts. The OLS notes that local budgetary decisions that determine annual changes in local property tax levies are affected by multiple factors, such as the provisions of labor contracts, costs of good and services, levels of local non-property tax revenues, debt service requirements, and the number of pupils required to be educated by local school districts. It is reasonable to conclude that a decrease in the amount that the tax levy is permitted to increase from year-to-year may comprise greater restraints on annual property tax increases than the restraints under current law, but it is not feasible to estimate the degree to which this is the case, or to quantify the amount by which future property levies would be lowered by the effect of the lower caps and the provisions permitting the use of cap “banking”.

## SENATE BILL NO. 29

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 29 with my recommendations for reconsideration.

New Jersey residents need relief from highest in the nation property taxes, up 70 percent in the past decade. Since 2001, spending at the local level has spiked 69% - from 26.5 billion dollars to an estimated 44.7 billion dollars this year. Had a hard 2.0 percent cap on property taxes been in place for the last 10 years, the average family's property tax bill today would be \$5,167 -- \$2,114 less than the \$7,281 average they are paying now. New Jerseyans can no longer afford to wait for real, sustainable property tax relief. That is why I am returning this bill to the Legislature with my recommendations to achieve meaningful, lasting property tax reform for New Jersey taxpayers.

Senate Bill No. 29, introduced on June 21, 2010, proposes to address this rampant increase by modifying the current 4% cap to a 2.9% cap. However, Senate Bill No. 29 fails in three fundamental ways to provide real reform.

First, the proposed cap is too high and should be lowered to 2.0 percent.

Second, Senate Bill No. 29 does not adequately reform the exemptions and waiver procedure built into the existing cap law. Under current law, there are 14 exceptions or waivers, including a catch all waiver that allows for exceptions not covered in the first 13, which has made the current 4 percent cap almost irrelevant. Senate Bill No. 29 leaves the catch all waiver in place and the decision to grant or reject a request under the catch all waiver in the hands of the Local Finance Board in

Trenton. We must limit the exceptions and waivers and place ultimate authority back in the hands of the people. As such, my conditional veto repeals 10 of the 14 waivers and exceptions, eliminates the catch all waiver and leaves in place only four limited exceptions: capital expenditures, including debt service; pension benefits (only to the extent that the increases exceed 2.0%); health benefits (only for the amount of increases between 2.0% and the average cost increase in the State Health Benefits Plan); and expenses incurred in connection with a state of emergency as determined by regulations to be defined.

The elimination of the catch all waiver is critical. As Senate Bill No. 29 currently provides, a possible exception to the cap may be granted for "any purpose related to the provision of government services that the [Local Finance Board] deems essential to protect the public health, safety, or welfare." This broad language is especially troublesome as it invites municipalities to apply for waivers to the cap at the first sign of fiscal concerns without the need to make difficult budgetary decisions.

Third, as stated above, the bill needs to provide for direct voter involvement. Senate Bill No. 29 continues to utilize the politically appointed Local Finance Board to grant exemptions to the cap. This process must be placed in the hands of the voters. No longer will Trenton bureaucrats decide property taxes. Any waivers of the 2.0% hard cap can only be granted by a vote of the people. Specifically, I propose that a local cap override referendum should be approved by majority vote.

I remain convinced that a constitutional amendment imposing a cap on increases in tax levies by local government units will provide the surest means to rein in skyrocketing

property tax costs. However, the Legislature has sent me Senate Bill No. 29 with its 2.9% cap and numerous exceptions. Through the recommendations contained in this conditional veto, we can achieve a hard 2.0 percent statutory cap with direct voter involvement.

Accordingly, I herewith return Senate Bill No. 29 and recommend that it be amended as follows:

<u>Page 5, Section 2, Line 8:</u>	Delete "["
<u>Page 5, Section 2, Line 21:</u>	Delete "]"
<u>Page 10, Section 3, Line 35:</u>	Delete "["
<u>Page 10, Section 3, Line 36:</u>	After "election" insert ", in accordance with subsection c. of section 4 of P.L.2007, c.62 (C.18A:7F-39),"
<u>Page 11, Section 9, Line 11:</u>	Insert "[" before "Except"
<u>Page 11, Section 9, Line 20:</u>	Insert "]" after " <u>bill</u> )"
<u>Page 11, Section 9, Lines 11-20:</u>	Delete in their entirety
<u>Page 13, Section 5, Line 22:</u>	Delete "e." after "subsection" and insert "b."
<u>Page 13, Section 5, Line 25:</u>	Delete "2.9" and insert "2.0"
<u>Page 13, Section 5, Line 26:</u>	After "for" insert "["
<u>Page 13, Section 5, Line 27:</u>	After "year," insert "]" insert "[" after "costs,"
<u>Page 13, Section 5, Line 30:</u>	After "year," insert "]" and"
<u>Page 13, Section 5, Line 36:</u>	Insert "[" before "(2)"
<u>Page 14, Section 5, Line 10:</u>	Insert "]" after "adequacy."
<u>Page 14, Section 5, Line 30:</u>	Insert "[" before "c."
<u>Page 14, Section 5, Line 33:</u>	Insert "]" after "year."
<u>Page 14, Section 5, Line 39:</u>	Delete "2.9" and insert "2.0"
<u>Page 15, Section 5, Line 2:</u>	Delete "2.9" and insert "2.0"
<u>Page 15, Section 5, Line 5:</u>	Insert "[" before "e."
<u>Page 15, Section 5, Line 31:</u>	Insert "]" after "percent."

<u>Page 15, Section 6, Line 40:</u>	Insert "[" before "(1)"
<u>Page 17, Section 6, Line 15:</u>	Insert "]" after "subsection."
<u>Page 17, Section 6, Line 16:</u>	Delete "c." and insert "a."
<u>Page 17, Section 6, Line 19:</u>	Insert "]" after "waiver,"
<u>Page 17, Section 6, Line 20:</u>	Before "school district" delete "the" and insert "A"
<u>Page 17, Section 6, Line 22:</u>	After "increase the" insert "adjusted"
<u>Page 17, Section 6, Line 25:</u>	After "the" insert "adjusted"
<u>Page 17, Section 6, Line 26:</u>	Delete "at the April 2007 school election" insert "shall" before "vote" after "affirmative"
<u>Page 17, Section 6, Line 26:</u>	Insert "[" before ", or"
<u>Page 17, Section 6, Line 28:</u>	Insert "]" after "affirmative"
<u>Page 17, Section 6, Line 29:</u>	Insert "adjusted" before "tax"
<u>Page 17, Section 6, Line 32:</u>	Insert "adjusted" before "tax"
<u>Page 17, Section 6, Line 44:</u>	Insert "[" before "(3)"
<u>Page 18, Section 6, Line 10:</u>	Insert "]" after "State."
<u>Page 18, Section 6, Line 11:</u>	Delete "e." insert "b."
<u>Page 18, Section 6, Lines 11-12:</u>	After "approval" insert "to exceed the cap pursuant to subsection c of this section" and delete "for a waiver pursuant to this section"
<u>Page 22, Section 8, Line 37:</u>	Insert "]" after "limitation" insert "tax levy growth limitation" after "]"
<u>Page 22, Section 8, Line 40:</u>	Remove "]" after "activities" remove "tax"
<u>Page 22, Section 8, Line 41:</u>	Delete "levy growth limitation."
<u>Page 24, Section 9, Line 25:</u>	Delete "1.029" and insert "1.02"

Page 25, Section 10, Line 12: Insert "[" after "raised"

Page 25, Section 10, Line 39: Insert "]" after "year."

Page 25, Section 10, Line 39: After "year.]" insert "by taxation for capital expenditures, including debt service as defined by law; increases in pension contributions and accrued liability for pension contributions in excess of 2.0% ; increases in health care costs equal to that portion of the actual increase in total health care costs for the budget year that is in excess of 2.0% of the total health care costs in the prior year, but is not in excess of the product of the total health care costs in the prior year and the average percentage increase of the State Health Benefits Program, P.L. 1961, c.49 (C.52:14-17.25 et seq.), as annually determined by the Division of Pensions and Benefits in the Department of the Treasury; and extraordinary costs incurred by a local unit directly related to a declared emergency, as defined by regulation promulgated by the Commissioner of the Department of Community Affairs, in consultation with the Commissioner of the Department of Education, as appropriate."

Page 26, Section 11, Line 9: Insert "[" before "11."

Page 26, Section 11, Line 37: Insert "]" after "section."

Page 26, Section 11, Line 38: Delete "b(1)" and insert "a(1)" Delete "Notwithstanding subsection a. of this section" " and replace "the" with "The"

Page 26, Section 11, Line 43: Delete "60", insert "in excess of 50" delete "or more"

Page 27, Section 11, Line 34: Delete "]"

Page 27, Section 11, Line 36:

Insert "[" before "c."

Page 27, Section 11, Line 42:

Insert "]" after  
"State."

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/Jeffrey S. Chiesa

Chief Counsel to the Governor



# Video & Transcript of Governor Christie Signing S-29 Into Law

Wednesday, July 14, 2010

Gov Christie: Cap 2.0 Bill Signing



## FULL TRANSCRIPT

**GOVERNOR CHRISTIE:** Let me make you all understand what this is all about, and there are plenty of naysayers about every idea that you're ever going to come up with but this is the beginning of real property tax relief for New Jerseyans. We had a 4% cap with 14 different exceptions and with a local finance board filled with bureaucrats down in Trenton who decided they can give a waiver for any reason or no reason at all to increase property taxes. That was a system that could not give us the real relief that we needed. They all know and I saw some signs here today that I was in favor of a 2.5% constitutional cap and I still am in favor of a constitutional cap, but governing is about leading and it's about compromising as long as you don't compromise the core principles that underlie your proposals. And this 2.0% cap represents compromise between myself and Senator Sweeney and members of the State Assembly for achieving something that a lot of people didn't think we could. Going from 14 exceptions to just 4 exceptions to that cap, and taking the local finance board and the Trenton bureaucrats out of deciding the level of your property taxes and putting it in your hands. And so now if you're property taxes, your local governing body wants to raise them above 2%, they've got to come and get permission from the people who pay the bills. Put it on the ballot and get a majority vote from your citizens - if you get that vote, then they get the additional property tax revenue. If they don't, they don't. And there's not going to be anybody in Trenton that can override that. We have waited for 30 years for a solution to the property tax problem in New Jersey and we've waited for the politicians in this state to fix it for 30 years and they haven't. My view is that it's time to put it in the hands of the people of this State, and that's what this piece of legislation does. And so you now, all of you who pay the bills have become partners with us in trying to make sure that we enforce what needs to be enforced in this cap which is to make smart decisions with your own money.

**ASSEMBLYMAN JOHN MCKEON:** At the end of the day Governor, maybe with you as the exception, truth be told the 9 million people rarely even know any of our names. The bottom line becomes what they feel every day and it's clear that we need to listen to our constituents and know that property taxes is number one on their minds and that, as we know, a cap can work. With the 4% having us gone from 7% to 3.3%, but at 2% we've now raised the bar even higher.

**ASSEMBLYMAN ALEX DECROCE:** I want to say this, all of you are the winners today and frankly all of the people of the State of New Jersey are winners today. I think we've been waiting for a long time for this to happen. And if it had happened several years ago, I think your taxes probably could have been as much as 15 or 18 hundred dollars cheaper than what they are today. Unfortunately it didn't happen, but it's happening now. Now as long as we continue working on that tool kit to give local mayors the avenue they need to put their budgets together, school boards and county governments will be in good shape.

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**STATE SENATOR JOSEPH KYRILLOS:** Special congratulations to the Governor of New Jersey who spent the spring and the better part of the summer, at least the first half of the summer, crisscrossing this State, moving up and down New Jersey, introducing what shouldn't be a difficult idea to grasp but was for New Jersey a novel idea. Along the way he met with an important essential and willing partner, the Senate President, and together with the rest of this team we celebrate a great, historic day for the people of New Jersey.

**STATE SENATOR STEVE SWEENEY:** We had an election and they elected a Republican Governor and a Democrat Assembly. Maybe the voters were trying to give us a cruel joke or just put another challenge in front of us but honestly what they wanted to do was they wanted to see action, they wanted to see change and there was some - significant change. You know, I read, because I do read all the articles, how the Governor scored a victory after victory. The Governor didn't score a victory, I didn't score a victory - the tax payers scored a victory.

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## July 13, 2010 - Property Tax Cap 2.0

Tuesday, July 13, 2010

### **On Cap 2.0 bringing real property tax relief to New Jerseyans:**

Daily Record, "...Coming At Just The Right Time":

"A 2 percent cap is more stringent than what we have now and it may be coming at just the right time."

Star-Lodger Editorial Board, "...A Big Win For New Jersey Taxpayers":

"The Assembly's vote yesterday to endorse the 2 percent cap on property tax increases is a big win for New Jersey taxpayers..."

Northern Valley Suburbanite, "...A Step In The Right Direction":

"...this plan should be a step in the right direction to helping the state's property tax problems."

Home News Tribune, "...It Is Superior To The Current Cap":

"...knowing that politics and compromise are interchangeable, we support the 2 percent cap...it is superior to the current cap..."

Press of Atlantic City, Cap 2.0: "Best Shot" For Relief From "Ever-Spiraling Tax Bills":

"...it's far better than the status quo - and it does appear to be the best shot property taxpayers have right now in getting some relief from ever-spiraling tax bills."

### **On Cap 2.0 being a product of a Governor Christie's steadfast push to get property tax reform passed:**

Charles Stile, The Record, "[Christie] Pulled Off A Political Long Shot Last Week":

"Christie has reason to believe the Rain Gods will buckle to his bombast. He pulled off a political long shot last week, wrenching an annual 2 percent cap on property tax increases from the reluctant, Democratic-controlled Legislature. He drove the Democrats to drop their lip-service defense of the weaker 4 percent limit enacted by former Gov. Jon Corzine in 2007. He forced the Democrats to ante up and negotiate, largely on his terms...the promise of a coming 2 percent cap, at the very least, lets Christie proclaim that help is on its way...Posturing is also a euphemism for acting - or rain dancing - and Christie has demonstrated that as political thespians go, he's as good as they come."

George Amick, The Times of Trenton, "Christie Has Been Amazingly Successful":

"Christie has been amazingly successful, so far, in getting what he wants from the Legislature. Taxpayers, like their elected local officials, had better hope he can keep it up."

### **On Governor Christie's willingness to work with the legislature to pass meaningful reforms:**

Daily Journal, "2 Percent Cap With Voter Ok Will Work Fine":

"Hurray for Republican Gov. Chris Christie and Democratic state Senate President Stephen M. Sweeney. Because of their compromise agreement reached over the weekend, meaningful property tax reform may be in New Jersey's future."

Daily Journal, "Kudos To Gov. Chris Christie":

"The Senate took a giant step toward property tax relief this week when it approved a measure reducing New Jersey's property tax cap from 4 percent to 2 percent and trimming the exemptions to the limit. Kudos to Gov. Chris Christie and Senate President Stephen Sweeney for working together and coming up with this compromise Democrats and Republicans can support."

The Gloucester County Times, "...Agreement On This Issue Is A Hopeful Sign For The Future":

"Certainly, the governor and the Senate president deserve credit for showing that all is not lost in terms of their ability to play well together. Both Sweeney and Christie are strong personalities, to say the least, and their agreement on this issue is a hopeful sign for the future."

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Carl Golden, Asbury Park Press, "A Defining Moment For Christie":

"The agreement - a 2 percent statutory limit on increases, with exceptions for health care and pensions, rising school enrollments, debt service and emergency situations - was a turning point for Sweeney and a defining moment for the governor...Christie showed that he does not intend to abandon his blunt and aggressive style of governing, but that he is sufficiently insightful to recognize that speaking softly and putting aside the big stick can pay off handsomely...Enactment of a credible cap on property tax increases through bipartisan cooperation provides rewards to both parties and even restores faith in the power of a mid-January public handshake."

Joseph Albright, Jersey Journal, "Tax Cap Compromise Heralded As A Win For Everyone":

"The Christie-Sweeney budget cap compromise is like a Major League Baseball trade favorable to both teams - the fans - and now the taxpayers."

***On the need to pass the Governor's "Tool Kit" following the passing of Cap 2.0:***

Asbury Park Press, "...In Conjunction With A Hard Tax Cap - Will Provide, Over Time, Real Property Tax Relief":

"Trenton legislators these days may not be one big happy family, but if they get this tax cap passed, they can know that they have begun to do precisely what New Jersey voters elected them to do. Note the choice of words: Begun to do. Now that the Statehouse crowd has gotten used to working during the summer, let legislators take up Christie's 33-bill "tool kit," which - in conjunction with a hard tax cap - will provide, over time, real property tax relief. As the governor said over the weekend, "In leadership, there's always a moment when you have an opportunity to get something done, and you better not let that moment go by." Exactly. And now is that moment."

Daily Journal, "...Lawmakers Must Begin Work On Passing The Governor's "Tool Kit":

"The work of the Legislature can't end with this measure. Once approved, lawmakers must begin work on passing the governor's "tool kit," which will give local officials the tools they will need to meet the cap -- such as changes to civil service and arbitration."


George Amick, The Times of Trenton, "Tax Cap, Tool Kit Must Go Together":

"Christie, to his credit, also wants the Legislature to create a "tool kit" stocked with more than two dozen reforms of the kind the League sought in 2006. These include revisions to a rigid and antiquated civil service law to allow towns to opt out of the system (now, once in, they're locked in), relief from state-imposed spending mandates, and changes relating to pensions and benefits...couldn't have put it better than Chris Christie did when he said: "It's not just the cap. It's the tool kit, as well. Both must be done. One cannot be done without the other. If you do the tool kit without the cap, it renders the tool kit less effective. If you do the cap without the tool kit, it makes the cap unworkable."

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