



**COMMITTEE STATEMENT:**

**ASSEMBLY:** No

**SENATE:** Yes

Identical to Assembly Statement for A2934

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

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

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

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**NEWSPAPER ARTICLES:** No

# ASSEMBLY, No. 2934

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED NOVEMEBR 9, 2000

**Sponsored by:**

**Assemblyman JAMES W. HOLZAPFEL**

**District 10 (Monmouth and Ocean)**

**Assemblyman DAVID W. WOLFE**

**District 10 (Monmouth and Ocean)**

**Co-Sponsored by:**

**Assemblymen Moran, Connors and Senator Ciesla**

**SYNOPSIS**

Authorizes 10-year lease purchase agreements and leasing arrangements for the acquisition of school buses.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/29/2001)**

1 AN ACT concerning certain lease purchase agreements and leasing  
2 arrangements entered into by public school districts and amending  
3 N.J.S.18A:20-4.2 and N.J.S.18A:18A-42.

4

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

7

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

9 18A:20-4.2. The board of education of any school district may, for  
10 school purposes:

11 (a) Purchase, take and condemn lands within the district and lands  
12 not exceeding 50 acres in extent without the district but situate in a  
13 municipality or municipalities adjoining the district, but no more than  
14 25 acres may be so acquired in any one such municipality, without the  
15 district, except with the consent, by ordinance, of such municipality;

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

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

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

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

**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 of sites; and (4) in the case of a lease, that any lease in excess of five  
2 years shall be approved by the Commissioner of Education and the  
3 Local Finance Board in the Department of Community Affairs;

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

1 real estate pursuant to section 1 of P.L.1949, c.177 (C.54:4-2.3). Any  
2 lease purchase agreement authorized by this section shall contain a  
3 provision making payments thereunder subject to the annual  
4 appropriation of funds sufficient to meet the required payments or  
5 shall contain an annual cancellation clause and shall require all  
6 construction contracts let by public school districts or let by  
7 developers or owners of property used for school purposes to be  
8 competitively bid, pursuant to N.J.S.18A:18A-1 et seq.;

9 (g) Establish with an individual or entity authorized to do business  
10 in the State a tenancy in common, condominium, horizontal property  
11 regime or other joint ownership arrangement on a site contributed by  
12 the school district; provided the following 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 of  
15 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 reduced  
18 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 the  
23 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 site,  
26 meet regulations of the Department of Education; and

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

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

36 (cf: P.L.2000, c.72, s.35)

37

38 2. N.J.S.18A:18A-42 is amended to read as follows:

39 18A:18A-42. All contracts for the provision or performance of  
40 goods or services shall be awarded for a period not to exceed 24  
41 consecutive months, except that contracts for professional services  
42 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall  
43 be awarded for a period not to exceed 12 consecutive months. Any  
44 board of education may award a contract for longer periods of time as  
45 follows:

46 a. Supplying of:

- 1 (1) Fuel for heating purposes, for any term not exceeding in the  
2 aggregate, three years;
- 3 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles  
4 or equipment, for any term not exceeding in the aggregate, three years;
- 5 (3) Thermal energy produced by a cogeneration facility, for use for  
6 heating or air conditioning or both, for any term not exceeding 40  
7 years, when the contract is approved by the Board of Public Utilities.  
8 For the purposes of this paragraph, "cogeneration" means the  
9 simultaneous production in one facility of electric power and other  
10 forms of useful energy such as heating or process steam; or
- 11 b. Plowing and removal of snow and ice, for any term not  
12 exceeding in the aggregate, three years; or
- 13 c. Collection and disposal of garbage and refuse, for any term not  
14 exceeding in the aggregate, three years; or
- 15 d. Data processing service, for any term of not more than seven  
16 years; or
- 17 e. Insurance, including the purchase of insurance coverages,  
18 insurance consultant or administrative services, and including  
19 participation in a joint self-insurance fund, risk management program  
20 or related services provided by a school board insurance group, or  
21 participation in an insurance fund established by a county pursuant to  
22 N.J.S.40A:10-6, or a joint insurance fund established pursuant to  
23 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more than  
24 three years; or
- 25 f. Leasing or servicing of automobiles, motor vehicles, electronic  
26 communications equipment, machinery and equipment of every nature  
27 and kind and textbooks and non-consumable instructional materials,  
28 for any term not exceeding in the aggregate, five years; [provided,  
29 however, such contracts] except that contracts for the leasing of  
30 school buses may be awarded for any term not exceeding in the  
31 aggregate ten years. Contracts awarded pursuant to this subsection  
32 shall be awarded only subject to and in accordance with rules and  
33 regulations promulgated by the State Board of Education; or
- 34 g. Supplying of any product or the rendering of any service by a  
35 company providing voice, data, transmission or switching services, for  
36 a term not exceeding five years; or
- 37 h. (Deleted by amendment, P.L.1999, c.440.)
- 38 i. Driver education instruction conducted by private, licensed  
39 driver education schools, for any term not exceeding in the aggregate,  
40 three years;
- 41 j. Provision or performance of goods or services for the purpose  
42 of conserving energy in the buildings owned by any local board of  
43 education, the entire price of which shall be established as a  
44 percentage of the resultant savings in energy costs, for a term not to  
45 exceed 15 years; except that these contracts shall be entered into only  
46 subject to and in accordance with guidelines promulgated by the Board

1 of Public Utilities establishing a methodology for computing energy  
2 costs;

3 k. Any single project for the construction, reconstruction or  
4 rehabilitation of any public building, structure or facility, or any public  
5 works project, including the retention of the services of any architect  
6 or engineer in connection therewith, for the length of time authorized  
7 and necessary for the completion of the actual construction;

8 l. Laundry service and the rental, supply and cleaning of uniforms  
9 for any term of not more than three years;

10 m. Food supplies and food services for any term of not more than  
11 three years;

12 n. Purchases made under a contract awarded by the Director of  
13 the Division of Purchase and Property in the Department of the  
14 Treasury for use by counties, municipalities or other contracting units  
15 pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term  
16 not to exceed the term of that contract.

17 Any contract for services other than professional services, the  
18 statutory length of which contract is for three years or less, may  
19 include provisions for no more than one two-year, or two one-year,  
20 extensions, subject to the following limitations: a. the contract shall be  
21 awarded by resolution of the board of education upon a finding by the  
22 board of education that the services are being performed in an  
23 effective and efficient manner; b. no such contract shall be extended so  
24 that it runs for more than a total of five consecutive years; c. any price  
25 change included as part of an extension shall be based upon the price  
26 of the original contract as cumulatively adjusted pursuant to any  
27 previous adjustment or extension and shall not exceed the change in  
28 the index rate for the 12 months preceding the most recent quarterly  
29 calculation available at the time the contract is renewed; and d. the  
30 terms and conditions of the contract remain substantially the same.

31 All multiyear leases and contracts entered into pursuant to this  
32 section 18A:18A-42, including any two-year or one-year extensions,  
33 except contracts for insurance coverages, insurance consultant or  
34 administrative services, participation or membership in a joint  
35 self-insurance fund, risk management programs or related services of  
36 a school board insurance group, participation in an insurance fund  
37 established by a county pursuant to N.J.S.40A:10-6 or contracts for  
38 thermal energy authorized pursuant to subsection a. above, and  
39 contracts for the provision or performance of goods or services to  
40 promote energy conservation authorized pursuant to subsection j. of  
41 this section, shall contain a clause making them subject to the  
42 availability and appropriation annually of sufficient funds as may be  
43 required to meet the extended obligation, or contain an annual  
44 cancellation clause. All contracts shall cease to have effect at the end  
45 of the contracted period and shall not be extended by any mechanism  
46 or provision, unless in conformance with the "Public School Contracts



1 Law," N.J.S.18A:18A-1 et seq., except that a contract may be  
2 extended by mutual agreement of the parties to the contract when a  
3 board of education has commenced rebidding prior to the time the  
4 contract expires or when the awarding of a contract is pending at the  
5 time the contract expires.

6 (cf: P.L.1999, c.440, s.78)

7

8 3. This act shall take effect immediately.

9

10

11

STATEMENT

12

13 Under current law a school district may enter into a lease purchase  
14 agreement for the acquisition of equipment if the term of the  
15 agreement is not in excess of five years. This bill authorizes a school  
16 district to enter into a lease purchase agreement for a term not in  
17 excess of ten years for the acquisition of school buses. All other  
18 existing statutory requirements in regard to lease purchase agreements  
19 for equipment are maintained under the bill.

20 Also under existing law, a school district may enter into a contract  
21 for the leasing and servicing of motor vehicles for a term not  
22 exceeding five years. Under State Board of Education regulations  
23 (N.J.A.C.6:20-8.2(c)), a school district may apply the lease payments  
24 toward the purchase of the vehicle at the end of the lease term. This  
25 bill provides that in the case of school buses, a district may enter into  
26 a leasing contract for a period not to exceed ten years as opposed to  
27 the current five years.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2934**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 13, 2000

The Assembly Education Committee favorably reports Assembly Bill No. 2934.

Under current law a school district may enter into a lease purchase agreement for the acquisition of equipment if the term of the agreement is not in excess of five years. This bill authorizes a school district to enter into a lease purchase agreement for a term not in excess of ten years for the acquisition of school buses. All other existing statutory requirements in regard to lease purchase agreements for equipment are maintained under the bill.

Also under existing law, a school district may enter into a contract for the leasing and servicing of motor vehicles for a term not exceeding five years. Under State Board of Education regulations found at N.J.A.C.6:20-8.2(c), a school district may apply the lease payments toward the purchase of the vehicle at the end of the lease term. This bill provides that in the case of school buses, a district may enter into a leasing contract for a period not to exceed ten years as opposed to the current five years.

SENATE EDUCATION COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2934**

**STATE OF NEW JERSEY**

DATED: MARCH 15, 2001

The Senate Education Committee reports favorably Assembly Bill No. 2934.

Under current law a school district may enter into a lease purchase agreement for the acquisition of equipment if the term of the agreement is not in excess of five years. This bill authorizes a school district to enter into a lease purchase agreement for a term not in excess of ten years for the acquisition of school buses. All other existing statutory requirements in regard to lease purchase agreements for equipment are maintained under the bill.

In addition, under existing law a school district may enter into a contract for the leasing and servicing of motor vehicles for a term not exceeding five years. Under State Board of Education regulations found at N.J.A.C.6:20-8.2(c), a school district may apply the lease payments toward the purchase of the vehicle at the end of the lease term. This bill provides that in the case of school buses, a district may enter into a leasing contract for a period not to exceed ten years rather than the current period of five years.

**SENATE, No. 2253**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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INTRODUCED MARCH 29, 2001

**Sponsored by:**

**Senator ANDREW R. CIESLA**

**District 10 (Monmouth and Ocean)**

**SYNOPSIS**

Authorizes 10-year lease purchase agreements and leasing arrangements for the acquisition of school buses.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning certain lease purchase agreements and leasing  
2 arrangements entered into by public school districts and amending  
3 N.J.S.18A:20-4.2 and N.J.S.18A:18A-42.

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

7  
8 1. N.J.S.18A:20-4.2 is amended to read as follows:

9 18A:20-4.2. The board of education of any school district may, for  
10 school purposes:

11 (a) Purchase, take and condemn lands within the district and lands  
12 not exceeding 50 acres in extent without the district but situate in a  
13 municipality or municipalities adjoining the district, but no more than  
14 25 acres may be so acquired in any one such municipality, without the  
15 district, except with the consent, by ordinance, of such municipality;

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

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

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

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

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

**Matter underlined thus is new matter.**

1 of sites; and (4) in the case of a lease, that any lease in excess of five  
2 years shall be approved by the Commissioner of Education and the  
3 Local Finance Board in the Department of Community Affairs;

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

1 real estate pursuant to section 1 of P.L.1949, c.177 (C.54:4-2.3). Any  
2 lease purchase agreement authorized by this section shall contain a  
3 provision making payments thereunder subject to the annual  
4 appropriation of funds sufficient to meet the required payments or  
5 shall contain an annual cancellation clause and shall require all  
6 construction contracts let by public school districts or let by  
7 developers or owners of property used for school purposes to be  
8 competitively bid, pursuant to N.J.S.18A:18A-1 et seq.;

9 (g) Establish with an individual or entity authorized to do business  
10 in the State a tenancy in common, condominium, horizontal property  
11 regime or other joint ownership arrangement on a site contributed by  
12 the school district; provided the following 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 of  
15 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 reduced  
18 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 the  
23 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 site,  
26 meet regulations of the Department of Education; and

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

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

36 (cf: P.L.2000, c.72, s.35)

37

38 2. N.J.S.18A:18A-42 is amended to read as follows:

39 18A:18A-42. All contracts for the provision or performance of  
40 goods or services shall be awarded for a period not to exceed 24  
41 consecutive months, except that contracts for professional services  
42 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall  
43 be awarded for a period not to exceed 12 consecutive months. Any  
44 board of education may award a contract for longer periods of time as  
45 follows:

46 a. Supplying of:

- 1 (1) Fuel for heating purposes, for any term not exceeding in the  
2 aggregate, three years;
- 3 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles  
4 or equipment, for any term not exceeding in the aggregate, three years;
- 5 (3) Thermal energy produced by a cogeneration facility, for use for  
6 heating or air conditioning or both, for any term not exceeding 40  
7 years, when the contract is approved by the Board of Public Utilities.  
8 For the purposes of this paragraph, "cogeneration" means the  
9 simultaneous production in one facility of electric power and other  
10 forms of useful energy such as heating or process steam; or
- 11 b. Plowing and removal of snow and ice, for any term not  
12 exceeding in the aggregate, three years; or
- 13 c. Collection and disposal of garbage and refuse, for any term not  
14 exceeding in the aggregate, three years; or
- 15 d. Data processing service, for any term of not more than seven  
16 years; or
- 17 e. Insurance, including the purchase of insurance coverages,  
18 insurance consultant or administrative services, and including  
19 participation in a joint self-insurance fund, risk management program  
20 or related services provided by a school board insurance group, or  
21 participation in an insurance fund established by a county pursuant to  
22 N.J.S.40A:10-6, or a joint insurance fund established pursuant to  
23 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more than  
24 three years; or
- 25 f. Leasing or servicing of automobiles, motor vehicles, electronic  
26 communications equipment, machinery and equipment of every nature  
27 and kind and textbooks and non-consumable instructional materials,  
28 for any term not exceeding in the aggregate, five years; [provided,  
29 however, such contracts] except that contracts for the leasing of  
30 school buses may be awarded for any term not exceeding in the  
31 aggregate ten years. Contracts awarded pursuant to this subsection  
32 shall be awarded only subject to and in accordance with rules and  
33 regulations promulgated by the State Board of Education; or
- 34 g. Supplying of any product or the rendering of any service by a  
35 company providing voice, data, transmission or switching services, for  
36 a term not exceeding five years; or
- 37 h. (Deleted by amendment, P.L.1999, c.440.)
- 38 i. Driver education instruction conducted by private, licensed  
39 driver education schools, for any term not exceeding in the aggregate,  
40 three years;
- 41 j. Provision or performance of goods or services for the purpose  
42 of conserving energy in the buildings owned by any local board of  
43 education, the entire price of which shall be established as a  
44 percentage of the resultant savings in energy costs, for a term not to  
45 exceed 15 years; except that these contracts shall be entered into only  
46 subject to and in accordance with guidelines promulgated by the Board



1 of Public Utilities establishing a methodology for computing energy  
2 costs;

3 k. Any single project for the construction, reconstruction or  
4 rehabilitation of any public building, structure or facility, or any public  
5 works project, including the retention of the services of any architect  
6 or engineer in connection therewith, for the length of time authorized  
7 and necessary for the completion of the actual construction;

8 l. Laundry service and the rental, supply and cleaning of uniforms  
9 for any term of not more than three years;

10 m. Food supplies and food services for any term of not more than  
11 three years;

12 n. Purchases made under a contract awarded by the Director of the  
13 Division of Purchase and Property in the Department of the Treasury  
14 for use by counties, municipalities or other contracting units pursuant  
15 to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term not to  
16 exceed the term of that contract.

17 Any contract for services other than professional services, the  
18 statutory length of which contract is for three years or less, may  
19 include provisions for no more than one two-year, or two one-year,  
20 extensions, subject to the following limitations: a. the contract shall be  
21 awarded by resolution of the board of education upon a finding by the  
22 board of education that the services are being performed in an  
23 effective and efficient manner; b. no such contract shall be extended so  
24 that it runs for more than a total of five consecutive years; c. any price  
25 change included as part of an extension shall be based upon the price  
26 of the original contract as cumulatively adjusted pursuant to any  
27 previous adjustment or extension and shall not exceed the change in  
28 the index rate for the 12 months preceding the most recent quarterly  
29 calculation available at the time the contract is renewed; and d. the  
30 terms and conditions of the contract remain substantially the same.

31 All multiyear leases and contracts entered into pursuant to this  
32 section 18A:18A-42, including any two-year or one-year extensions,  
33 except contracts for insurance coverages, insurance consultant or  
34 administrative services, participation or membership in a joint  
35 self-insurance fund, risk management programs or related services of  
36 a school board insurance group, participation in an insurance fund  
37 established by a county pursuant to N.J.S.40A:10-6 or contracts for  
38 thermal energy authorized pursuant to subsection a. above, and  
39 contracts for the provision or performance of goods or services to  
40 promote energy conservation authorized pursuant to subsection j. of  
41 this section, shall contain a clause making them subject to the  
42 availability and appropriation annually of sufficient funds as may be  
43 required to meet the extended obligation, or contain an annual  
44 cancellation clause. All contracts shall cease to have effect at the end  
45 of the contracted period and shall not be extended by any mechanism  
46 or provision, unless in conformance with the "Public School Contracts

1 Law," N.J.S.18A:18A-1 et seq., except that a contract may be  
2 extended by mutual agreement of the parties to the contract when a  
3 board of education has commenced rebidding prior to the time the  
4 contract expires or when the awarding of a contract is pending at the  
5 time the contract expires.

6 (cf: P.L.1999, c.440, s.78)

7

8 3. This act shall take effect immediately.

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10

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STATEMENT

12

13 Under current law a school district may enter into a lease purchase  
14 agreement for the acquisition of equipment if the term of the  
15 agreement is not in excess of five years. This bill authorizes a school  
16 district to enter into a lease purchase agreement for a term not in  
17 excess of ten years for the acquisition of school buses. All other  
18 existing statutory requirements in regard to lease purchase agreements  
19 for equipment are maintained under the bill.

20 Also under existing law, a school district may enter into a contract  
21 for the leasing and servicing of motor vehicles for a term not  
22 exceeding five years. Under State Board of Education regulations  
23 (N.J.A.C.6:20-8.2(c)), a school district may apply the lease payments  
24 toward the purchase of the vehicle at the end of the lease term. This  
25 bill provides that in the case of school buses, a district may enter into  
26 a leasing contract for a period not to exceed ten years as opposed to  
27 the current five years.

SENATE EDUCATION COMMITTEE

STATEMENT TO

**SENATE, No. 2253**

**STATE OF NEW JERSEY**

DATED: JUNE 25, 2001

The Senate Education Committee reports favorably Senate Bill No. 2253.

Under current law a school district may enter into a lease purchase agreement for the acquisition of equipment if the term of the agreement is not in excess of five years. This bill authorizes a school district to enter into a lease purchase agreement for a term not in excess of ten years for the acquisition of school buses. All other existing statutory requirements in regard to lease purchase agreements for equipment are maintained under the bill.

In addition, under existing law a school district may enter into a contract for the leasing and servicing of motor vehicles for a term not exceeding five years. Under State Board of Education regulations found at N.J.A.C.6:20-8.2(c), a school district may apply the lease payments toward the purchase of the vehicle at the end of the lease term. This bill provides that in the case of school buses, a district may enter into a leasing contract for a period not to exceed ten years rather than the current period of five years.

As reported, this bill is identical to A2934.

P.L. 2001, CHAPTER 146, *approved July 10, 2001*  
Assembly, No. 2934

1 **AN ACT** concerning certain lease purchase agreements and leasing  
2 arrangements entered into by public school districts and amending  
3 N.J.S.18A:20-4.2 and N.J.S.18A:18A-42.

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

7  
8 1. N.J.S.18A:20-4.2 is amended to read as follows:  
9 18A:20-4.2. The board of education of any school district may, for  
10 school purposes:

11 (a) Purchase, take and condemn lands within the district and lands  
12 not exceeding 50 acres in extent without the district but situate in a  
13 municipality or municipalities adjoining the district, but no more than  
14 25 acres may be so acquired in any one such municipality, without the  
15 district, except with the consent, by ordinance, of such municipality;

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

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

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

35 (e) Construct, purchase, lease or otherwise acquire a building with  
36 the federal government, the State, a political subdivision thereof or any  
37 other individual or entity properly authorized to do business in the  
38 State; provided that: (1) the noneducational uses of the building are  
39 compatible with the establishment and operation of a school, as  
40 determined by the Commissioner of Education; (2) the portion of the  
41 building to be used as a school meets regulations of the Department of

**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 Education; (3) the board of education has complied with the  
2 provisions of law and regulations relating to the selection and approval  
3 of sites; and (4) in the case of a lease, that any lease in excess of five  
4 years shall be approved by the Commissioner of Education and the  
5 Local Finance Board in the Department of Community Affairs;

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

1 R.S.54:4-3.3, and shall not be considered or treated as property leased  
2 to another whose property is not exempt, and shall not be assessed as  
3 real estate pursuant to section 1 of P.L.1949, c.177 (C.54:4-2.3). Any  
4 lease purchase agreement authorized by this section shall contain a  
5 provision making payments thereunder subject to the annual  
6 appropriation of funds sufficient to meet the required payments or  
7 shall contain an annual cancellation clause and shall require all  
8 construction contracts let by public school districts or let by  
9 developers or owners of property used for school purposes to be  
10 competitively bid, pursuant to N.J.S.18A:18A-1 et seq.;

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

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

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

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

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

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

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

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

38 (cf: P.L.2000, c.72, s.35)

39

40 2. N.J.S.18A:18A-42 is amended to read as follows:

41 18A:18A-42. All contracts for the provision or performance of  
42 goods or services shall be awarded for a period not to exceed 24  
43 consecutive months, except that contracts for professional services  
44 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall  
45 be awarded for a period not to exceed 12 consecutive months. Any  
46 board of education may award a contract for longer periods of time as

- 1 follows:
- 2 a. Supplying of:
- 3 (1) Fuel for heating purposes, for any term not exceeding in the  
4 aggregate, three years;
- 5 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles  
6 or equipment, for any term not exceeding in the aggregate, three years;
- 7 (3) Thermal energy produced by a cogeneration facility, for use for  
8 heating or air conditioning or both, for any term not exceeding 40  
9 years, when the contract is approved by the Board of Public Utilities.  
10 For the purposes of this paragraph, "cogeneration" means the  
11 simultaneous production in one facility of electric power and other  
12 forms of useful energy such as heating or process steam; or
- 13 b. Plowing and removal of snow and ice, for any term not  
14 exceeding in the aggregate, three years; or
- 15 c. Collection and disposal of garbage and refuse, for any term not  
16 exceeding in the aggregate, three years; or
- 17 d. Data processing service, for any term of not more than seven  
18 years; or
- 19 e. Insurance, including the purchase of insurance coverages,  
20 insurance consultant or administrative services, and including  
21 participation in a joint self-insurance fund, risk management program  
22 or related services provided by a school board insurance group, or  
23 participation in an insurance fund established by a county pursuant to  
24 N.J.S.40A:10-6, or a joint insurance fund established pursuant to  
25 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more than  
26 three years; or
- 27 f. Leasing or servicing of automobiles, motor vehicles, electronic  
28 communications equipment, machinery and equipment of every nature  
29 and kind and textbooks and non-consumable instructional materials,  
30 for any term not exceeding in the aggregate, five years; [provided,  
31 however, such contracts] except that contracts for the leasing of  
32 school buses may be awarded for any term not exceeding in the  
33 aggregate ten years. Contracts awarded pursuant to this subsection  
34 shall be awarded only subject to and in accordance with rules and  
35 regulations promulgated by the State Board of Education; or
- 36 g. Supplying of any product or the rendering of any service by a  
37 company providing voice, data, transmission or switching services, for  
38 a term not exceeding five years; or
- 39 h. (Deleted by amendment, P.L.1999, c.440.)
- 40 i. Driver education instruction conducted by private, licensed  
41 driver education schools, for any term not exceeding in the aggregate,  
42 three years;
- 43 j. Provision or performance of goods or services for the purpose  
44 of conserving energy in the buildings owned by any local board of  
45 education, the entire price of which shall be established as a  
46 percentage of the resultant savings in energy costs, for a term not to

1 exceed 15 years; except that these contracts shall be entered into only  
2 subject to and in accordance with guidelines promulgated by the Board  
3 of Public Utilities establishing a methodology for computing energy  
4 costs;

5 k. Any single project for the construction, reconstruction or  
6 rehabilitation of any public building, structure or facility, or any public  
7 works project, including the retention of the services of any architect  
8 or engineer in connection therewith, for the length of time authorized  
9 and necessary for the completion of the actual construction;

10 l. Laundry service and the rental, supply and cleaning of uniforms  
11 for any term of not more than three years;

12 m. Food supplies and food services for any term of not more than  
13 three years;

14 n. Purchases made under a contract awarded by the Director of  
15 the Division of Purchase and Property in the Department of the  
16 Treasury for use by counties, municipalities or other contracting units  
17 pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term  
18 not to exceed the term of that contract.

19 Any contract for services other than professional services, the  
20 statutory length of which contract is for three years or less, may  
21 include provisions for no more than one two-year, or two one-year,  
22 extensions, subject to the following limitations: a. the contract shall be  
23 awarded by resolution of the board of education upon a finding by the  
24 board of education that the services are being performed in an  
25 effective and efficient manner; b. no such contract shall be extended so  
26 that it runs for more than a total of five consecutive years; c. any price  
27 change included as part of an extension shall be based upon the price  
28 of the original contract as cumulatively adjusted pursuant to any  
29 previous adjustment or extension and shall not exceed the change in  
30 the index rate for the 12 months preceding the most recent quarterly  
31 calculation available at the time the contract is renewed; and d. the  
32 terms and conditions of the contract remain substantially the same.

33 All multiyear leases and contracts entered into pursuant to this  
34 section 18A:18A-42, including any two-year or one-year extensions,  
35 except contracts for insurance coverages, insurance consultant or  
36 administrative services, participation or membership in a joint  
37 self-insurance fund, risk management programs or related services of  
38 a school board insurance group, participation in an insurance fund  
39 established by a county pursuant to N.J.S.40A:10-6 or contracts for  
40 thermal energy authorized pursuant to subsection a. above, and  
41 contracts for the provision or performance of goods or services to  
42 promote energy conservation authorized pursuant to subsection j. of  
43 this section, shall contain a clause making them subject to the  
44 availability and appropriation annually of sufficient funds as may be  
45 required to meet the extended obligation, or contain an annual  
46 cancellation clause. All contracts shall cease to have effect at the end



1 of the contracted period and shall not be extended by any mechanism  
2 or provision, unless in conformance with the "Public School Contracts  
3 Law," N.J.S.18A:18A-1 et seq., except that a contract may be  
4 extended by mutual agreement of the parties to the contract when a  
5 board of education has commenced rebidding prior to the time the  
6 contract expires or when the awarding of a contract is pending at the  
7 time the contract expires.

8 (cf: P.L.1999, c.440, s.78)

9  
10 3. This act shall take effect immediately.

11  
12  
13 STATEMENT  
14

15 Under current law a school district may enter into a lease purchase  
16 agreement for the acquisition of equipment if the term of the  
17 agreement is not in excess of five years. This bill authorizes a school  
18 district to enter into a lease purchase agreement for a term not in  
19 excess of ten years for the acquisition of school buses. All other  
20 existing statutory requirements in regard to lease purchase agreements  
21 for equipment are maintained under the bill.

22 Also under existing law, a school district may enter into a contract  
23 for the leasing and servicing of motor vehicles for a term not  
24 exceeding five years. Under State Board of Education regulations  
25 (N.J.A.C.6:20-8.2(c)), a school district may apply the lease payments  
26 toward the purchase of the vehicle at the end of the lease term. This  
27 bill provides that in the case of school buses, a district may enter into  
28 a leasing contract for a period not to exceed ten years as opposed to  
29 the current five years.

30  
31  
32 \_\_\_\_\_  
33  
34 Authorizes 10-year lease purchase agreements and leasing  
35 arrangements for the acquisition of school buses.

## CHAPTER 146

AN ACT concerning certain lease purchase agreements and leasing arrangements entered into by public school districts and amending N.J.S.18A:20-4.2 and N.J.S.18A:18A-42.

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

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

Powers of boards concerning real property.

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

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

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

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

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

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

(f) Acquire, with the approval of either the commissioner, or voters or board of school estimate, as applicable, improvements or additions to school buildings through lease purchase agreements not in excess of five years. The agreement shall be recorded as an expenditure of the General Fund of the district. The commissioner shall approve the agreement only upon a demonstration by the district that the lease purchase payments and any operating expenses related to the agreement can be included within the district's net budget spending growth limitation and will not result in the need for approval by the voters or board of school estimate, as appropriate, of additional spending proposals to maintain existing instructional programs and extracurricular activities. If the commissioner cannot approve the agreement, the board of education may frame a separate question to authorize the lease purchase agreement and obtain voter or board of school estimate approval to enter into the agreement. A district may, without separate prior approval of the commissioner, also acquire equipment through a lease purchase agreement not in excess of five years or in the case of a lease purchase agreement entered into for the acquisition of school buses not in excess of 10 years, provided that the amount of the first installment and each subsequent installment for the lease purchase payments is included in the budget that is advertised and submitted for approval to the voters of the district or the board of school estimate, as appropriate. As used herein, a "lease purchase agreement" refers to any agreement which gives the board of education as lessee the option of purchasing the leased equipment or improvements or additions to existing school buildings during or upon termination of the lease, with credit toward the purchase price of all or part of rental payments which have

been made by the board of education in accordance with the lease. As part of such a transaction, the board of education may transfer or lease land or rights in land, including any building thereon, after publicly advertising for proposals for the transfer for nominal or fair market value, to the party selected by the board of education, by negotiation or otherwise, after determining that the proposal is in the best interest of the taxpayers of the district, to construct or to improve and to lease or to own or to have ownership interests in the site and the school building to be leased pursuant to such lease purchase agreement, notwithstanding the provisions of any other law to the contrary. The land and any building thereon which is described in a lease purchase agreement entered into pursuant to this amendatory act, shall be deemed to be and treated as property of the school district, used for school purposes pursuant to R.S.54:4-3.3, and shall not be considered or treated as property leased to another whose property is not exempt, and shall not be assessed as real estate pursuant to section 1 of P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement authorized by this section shall contain a provision making payments thereunder subject to the annual appropriation of funds sufficient to meet the required payments or shall contain an annual cancellation clause and shall require all construction contracts let by public school districts or let by developers or owners of property used for school purposes to be competitively bid, pursuant to N.J.S.18A:18A-1 et seq.;

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

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

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

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

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

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

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

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

2. N.J.S.18A:18A-42 is amended to read as follows:

Multiyear contracts.

18A:18A-42. All contracts for the provision or performance of goods or services shall be awarded for a period not to exceed 24 consecutive months, except that contracts for professional services pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall be awarded for a period not to exceed 12 consecutive months. Any board of education may award a contract for longer periods of time as follows:

a. Supplying of:

(1) Fuel for heating purposes, for any term not exceeding in the aggregate, three years;

(2) Fuel or oil for use of automobiles, autobuses, motor vehicles or equipment, for any term not exceeding in the aggregate, three years;

(3) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam; or

- b. Plowing and removal of snow and ice, for any term not exceeding in the aggregate, three years; or
- c. Collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, three years; or
- d. Data processing service, for any term of not more than seven years; or
- e. Insurance, including the purchase of insurance coverages, insurance consultant or administrative services, and including participation in a joint self-insurance fund, risk management program or related services provided by a school board insurance group, or participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6, or a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more than three years; or
- f. Leasing or servicing of automobiles, motor vehicles, electronic communications equipment, machinery and equipment of every nature and kind and textbooks and non-consumable instructional materials, for any term not exceeding in the aggregate, five years; except that contracts for the leasing of school buses may be awarded for any term not exceeding in the aggregate ten years. Contracts awarded pursuant to this subsection shall be awarded only subject to and in accordance with rules and regulations promulgated by the State Board of Education; or
- g. Supplying of any product or the rendering of any service by a company providing voice, data, transmission or switching services, for a term not exceeding five years; or
- h. (Deleted by amendment, P.L.1999, c.440.)
- i. Driver education instruction conducted by private, licensed driver education schools, for any term not exceeding in the aggregate, three years;
- j. Provision or performance of goods or services for the purpose of conserving energy in the buildings owned by any local board of education, the entire price of which shall be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; except that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy costs;
- k. Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;
- l. Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years;
- m. Food supplies and food services for any term of not more than three years;
- n. Purchases made under a contract awarded by the Director of the Division of Purchase and Property in the Department of the Treasury for use by counties, municipalities or other contracting units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term not to exceed the term of that contract.

Any contract for services other than professional services, the statutory length of which contract is for three years or less, may include provisions for no more than one two-year, or two one-year, extensions, subject to the following limitations: a. the contract shall be awarded by resolution of the board of education upon a finding by the board of education that the services are being performed in an effective and efficient manner; b. no such contract shall be extended so that it runs for more than a total of five consecutive years; c. any price change included as part of an extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and d. the terms and conditions of the contract remain substantially the same.

All multiyear leases and contracts entered into pursuant to this section 18A:18A-42, including any two-year or one-year extensions, except contracts for insurance coverages, insurance consultant or administrative services, participation or membership in a joint self-insurance fund, risk management programs or related services of a school board insurance group, participation

in an insurance fund established by a county pursuant to N.J.S.40A:10-6 or contracts for thermal energy authorized pursuant to subsection a. above, and contracts for the provision or performance of goods or services to promote energy conservation authorized pursuant to subsection j. of this section, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause. All contracts shall cease to have effect at the end of the contracted period and shall not be extended by any mechanism or provision, unless in conformance with the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., except that a contract may be extended by mutual agreement of the parties to the contract when a board of education has commenced rebidding prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires.

3. This act shall take effect immediately.

Approved July 10, 2001.

PO BOX 004  
TRENTON, NJ 08625

*Office of the Governor*  
**NEWS RELEASE**

CONTACT: Tom Wilson  
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RELEASE: July 10 , 2001

Acting Governor Donald T. DiFrancesco signed the following legislation today:

**A-3081**, sponsored by Senate Majority Leader John Bennett (R-Monmouth) and Senator Diane Allen (R-Burlington/Camden) and Assemblymen John Kelly (R-Bergen/Essex/Passaic) and Kevin O'Toole (R-Essex/Union), provides for oversight of "The Home Warranty and Builders' Relocation Act," a state administered program that provides buyers of new homes with warranty protection against defects in the construction or quality of the structural elements of their new home.

The bill also establishes a Board of Trustees to monitor and report on the financial performance of the fund.

**S-1679**, sponsored by Senator Ronald Rice (D-Essex) and Assemblyman Guy Talarico (R-Bergen), clarifies that the five-day grace period granted on the payment of rent to senior citizen lessees who are receiving Social Security Old Age Pension, Railroad Retirement Pensions or other governmental pension does not include Saturdays, Sundays or holidays. The bill also extends application of the grace period to lessees who are disabled.

**S-2155**, sponsored by Senators Walter Kavanaugh (R-Morris/Somerset) and John Lynch (D-Middlesex/Somerset/Union), permits judges of the former county court, county juvenile and domestic relations court and county district court who resigned in good standing to perform marriages.

**A-1152**, sponsored by Senator Norman Robertson (R-Essex/Passaic) and Assemblymen Scott Garrett (R-Sussex/Hunterdon/Morris) and Guy Gregg (R-Sussex/Hunterdon/Morris), clarifies that a trust established for the care of a pet is valid in this state.

**A-2267**, sponsored by Senator Gerald Cardinale (R-Bergen) and Assemblymen Kip Bateman (R-Morris/Somerset) and Rudy Garcia (D-Hudson), clarifies that the provisions of the "Spill Compensation and Control Act," concerning underground storage tanks applies to one or more storage tanks.

**A-2934**, sponsored by Senator Andrew Ciesla (R-Monmouth/Ocean) and Assemblymen James Holzapfel (R-Monmouth/Ocean) and David Wolfe (R-Monmouth/Ocean), authorizes a school district to enter into a 10-year lease-purchase agreement for the acquisition of school buses.

**A-3098**, sponsored by Senator Anthony Bucco (R-Morris) and Assemblymen Richard Merkt (R-Morris) and David Wolfe (R-Monmouth/Ocean), expands the meaning of

public library under the Public Library Project Grant Program to include association libraries, thereby allowing them to apply for funds under the program.

**A-3536**, sponsored by Senator Peter Inverso (R-Mercer/Middlesex) and Assemblymen James Holzapfel (R-Monmouth/Ocean) and Anthony Impreveduto (D-Bergen/Hudson), modifies the requirements to be eligible to take the public accountant certification examination such as, allowing applicants to take the licensure examination prior to completing the 150 semester hours of education if they apply before July 1, 2005 and have a baccalaureate degree and providing that certified public accountants must pass a registered municipal accountant's examination to qualify as a registered municipal accountant to undertake the work of auditing the financial statements of municipalities and counties.