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"McGreevey signs new Camden bill," 12-6-2002 Philadelphia Inquirer, p. B4

§1 - C.52:27BBB-  
2.1  
§16 -  
C.52:27BBB-44.1  
§17 - Note to §§1-16

P.L. 2002, CHAPTER 108, *approved December 4, 2002*  
Senate, No. 1878

1 **AN ACT** clarifying certain provisions of P.L.2002, c.43, amending and  
2 supplementing P.L.2002, c.43 (C.52:27BBB-1 et seq.).  
3

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

7 1. (New section) The Legislature finds and declares that:

8 a. The court decision striking certain provisions of P.L.2002, c.43  
9 requires the Legislature to clarify its intent in approving that act;

10 b. The court's interpretation of P.L.2002, c.43 is contrary to the  
11 intent of the Legislature and as a result, amendatory legislation  
12 removing any question regarding the intent, scope and applicability of  
13 that act is appropriate;

14 c. It is also important to clarify and expand upon a legislative intent  
15 of focusing redevelopment efforts in qualified municipalities by  
16 ensuring that the expenditure of public dollars for development and  
17 redevelopment is coordinated with the expenditure of public dollars  
18 supporting schools and educational efforts in such municipalities; and

19 d. Given the magnitude of the State's investment in a qualified  
20 municipality, it is incumbent upon the State to take the appropriate  
21 steps necessary to ensure effective governance at the school district  
22 level in addition to effective governance at the municipal level. Not  
23 only will limited school district oversight ensure the coordinated  
24 expenditures of public funds, it will ensure that the proposed local tax  
25 levy to support the district's schools will not further burden the  
26 municipal tax base. Additionally, this oversight will assist the district  
27 in improving the quality of education provided to students in the  
28 municipality. Enhancing educational quality will, in turn, assist  
29 housing revitalization by attracting new families to the community and  
30 preventing flight of current residents. It will also serve to attract new  
31 businesses and potential employers because the community can offer  
32 better-prepared graduates to the workforce.  
33

34 2. Section 2 of P.L.2002, c.43 (C.52:27BBB-2) is amended to read  
35 as follows:

36 2. The Legislature finds and declares that:

37 a. There exists in certain municipalities a continuing state of fiscal  
38 distress which endures despite the imposition of a series of measures

**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 authorized pursuant to law;
- 2 b. Economically impoverished, those municipalities have a history  
3 of high crime rates, including arson, that has necessitated the  
4 maintenance of large police and fire departments, at enormous  
5 taxpayer cost in municipalities without a sound tax base;
- 6 c. The past fifty years have witnessed the depopulation of those  
7 municipalities characterized by such problems;
- 8 d. Spending power on the part of residents of these municipalities  
9 is severely limited and local businesses thereby suffer from the lack of  
10 an indigenous client base so that rebuilding the fortunes of city  
11 residents in order to recreate a viable urban economy will require a  
12 considerable period of time;
- 13 e. Notwithstanding the prosperity which has been experienced  
14 elsewhere throughout New Jersey in recent years, the unemployment  
15 rate in these municipalities is substantially higher than that of most  
16 other municipalities;
- 17 f. While the rest of New Jersey has enjoyed increased land values,  
18 the ratable base in these municipalities has declined steadily during the  
19 1990's, marked by their low equalized value per capita which can be  
20 about one-half that of other cities;
- 21 g. Coupled with this economic deprivation, many of these  
22 municipalities are characterized by a lack of internal audit controls,  
23 accountability and oversight, evidenced by the fact that although real  
24 estate taxes comprise over two-thirds of locally generated revenues,  
25 many of these municipalities do not rigorously enforce collection and  
26 receive but a portion of their levy;
- 27 h. Although the State has experienced a period of tremendous  
28 prosperity and economic growth over the past few years, such  
29 municipalities continue to languish without any obvious signs of  
30 improvement;
- 31 i. These municipalities have experienced a substantial budget  
32 deficit for many years which has only been addressed through  
33 extraordinary payments of State aid;
- 34 j. While State aid dollars which have been directed toward such  
35 municipalities have served to address their structural deficits, they  
36 have not, and cannot, function as an economic impetus toward the  
37 rebuilding of those municipalities;
- 38 k. Because a significant proportion of the population of such  
39 municipalities lacks adequate health insurance coverage, causing many  
40 to seek basic care in municipal emergency rooms, municipal hospitals  
41 are heavily dependent upon state assistance commonly referred to as  
42 "charity care" for reimbursement. Such health services are crucial to  
43 the overall health of the infrastructure and social growth and stability  
44 of qualified municipalities. Moreover, the demand for such health  
45 services has necessitated planning for a major expansion of medical  
46 school programs within qualified municipalities;

1       l. Given the high crime rates in these municipalities, if economic  
2 recovery is to be successful, it is vital that municipal residents feel that  
3 their basic safety is assured; accordingly, the State will continue to  
4 commit to assist such municipalities in maintaining not less than that  
5 number of police officers employed by the municipality [on the  
6 effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.)] at the time  
7 of the determination by the commissioner that the municipality fulfills  
8 the definition of a qualified municipality and in creating working  
9 relationships between State agencies, local law enforcement and the  
10 community to identify and develop strategies to improve the quality of  
11 life and the security of residents in qualified municipalities;

12       m. In order to ensure the long-term economic viability of such  
13 municipalities, it is critical that the Legislature encourage, to the  
14 extent possible, the production of market-rate housing within the  
15 municipality so as to expand the local tax base and provide a greater  
16 diversity of income levels among municipal inhabitants;

17       n. When faced with analogous situations, other states have  
18 employed extraordinary measures to provide leadership and oversight  
19 for struggling cities and the necessary tools to spur an economic  
20 revival within those cities; and

21       o. In light of the dire needs faced by such municipalities and the  
22 lack of progress in addressing those needs either governmentally or  
23 through private sector initiative, and given the successful interventions  
24 on the part of other states in analogous circumstances, it is incumbent  
25 upon the State to take exceptional measures, on an interim basis, to  
26 rectify certain governance issues faced by such municipalities and to  
27 strategically invest those sums of money necessary in order to assure  
28 the long-term financial viability of these municipalities.

29 (cf: P.L.2002, c.43, s.2)

30

31       3. Section 3 of P.L.2002, c.43 (C.52:27BBB-3) is amended to read  
32 as follows:

33       3. As used in this act:

34       "Authority" means the New Jersey Economic Development  
35 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

36       "Board" means the State Economic Recovery Board established  
37 pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36).

38       "Chief operating officer" means that person appointed pursuant to  
39 P.L.2002, c.43 (C.52:27BBB-1 et al.) responsible for reorganizing  
40 governmental operations of a qualified municipality in order to assure  
41 the delivery of essential municipal services and the professional  
42 administration of that municipal government.

43       "Commissioner" means the Commissioner of Community Affairs.

44       "Contiguous with" means within.

45       "Director" means the Director of the Division of Local Government  
46 Services in the Department of Community Affairs.

1 "Economic recovery term" means the period commencing with the  
2 expiration of the term of the chief operating officer and terminating  
3 five years thereafter.

4 "In consultation with" means with consideration of the input of, or  
5 the advice of, the mayor, governing body, chief operating officer or  
6 director, as the case may be, without regard to the form or manner of  
7 the consultation.

8 "Local Finance Board" means the Local Finance Board of the  
9 Division of Local Government Services in the Department of  
10 Community Affairs.

11 "Mayor" means the mayor or chief executive officer of the  
12 municipality, as appropriate to the form of government.

13 "Project" means: (1) (a) acquisition, construction, reconstruction,  
14 repair, alteration, improvement and extension of any building,  
15 structure, facility, including water transmission facilities or other  
16 improvement, whether or not in existence or under construction, (b)  
17 purchase and installation of equipment and machinery, (c) acquisition  
18 and improvement of real estate and the extension or provision of  
19 utilities, access roads and other appurtenant facilities; and (2) (a) the  
20 acquisition, financing, or refinancing of inventory, raw materials,  
21 supplies, work in process, or stock in trade, or (b) the financing,  
22 refinancing or consolidation of secured or unsecured debt, borrowings,  
23 or obligations, or (c) the provision of financing for any other expense  
24 incurred in the ordinary course of business; all of which are to be used  
25 or occupied by any person in any enterprise promoting employment,  
26 either for the manufacturing, processing or assembly of materials or  
27 products, or for research or office purposes, including, but not limited  
28 to, medical and other professional facilities, or for industrial,  
29 recreational, hotel or motel facilities, public utility and warehousing,  
30 or for commercial and service purposes, including, but not limited to,  
31 retail outlets, retail shopping centers, restaurant and retail food  
32 outlets, and any and all other employment promoting enterprises,  
33 including, but not limited to, motion picture and television studios and  
34 facilities and commercial fishing facilities, commercial facilities for  
35 recreational fishermen, fishing vessels, aquaculture facilities and  
36 marketing facilities for fish and fish products and (d) acquisition of an  
37 equity interest in, including capital stock of, any corporation; or any  
38 combination of the above, which the authority determines will: (i) tend  
39 to maintain or provide gainful employment opportunities within and  
40 for the people of the State, or (ii) aid, assist and encourage the  
41 economic development or redevelopment of any political subdivision  
42 of the State, or (iii) maintain or increase the tax base of the State or of  
43 any political subdivision of the State, or (iv) maintain or diversify and  
44 expand employment promoting enterprises within the State; and (3)  
45 the cost of acquisition, construction, reconstruction, repair, alteration,  
46 improvement and extension of an energy saving improvement or

1 pollution control project which the authority determines will tend to  
2 reduce the consumption in a building devoted to industrial or  
3 commercial purposes, or in an office building, of nonrenewable  
4 sources of energy or to reduce, abate or prevent environmental  
5 pollution within the State; and (4) the acquisition, construction,  
6 reconstruction, repair, alteration, improvement, extension,  
7 development, financing or refinancing of infrastructure and  
8 transportation facilities or improvements related to economic  
9 development and of cultural, recreational and tourism facilities or  
10 improvements related to economic development and of capital facilities  
11 for primary and secondary schools and of mixed use projects  
12 consisting of housing and commercial development; and (5) the  
13 establishment, acquisition, construction, rehabilitation, improvement,  
14 and ownership of port facilities as defined in section 3 of P.L.1997,  
15 c.150 (C.34:1B-146). Project may also include: reimbursement to any  
16 person for costs in connection with any project, or the refinancing of  
17 any project or portion thereof, if such actions are determined by the  
18 authority to be necessary and in the public interest to maintain  
19 employment and the tax base of any political subdivision and likely to  
20 facilitate improvements or the completion of the project; and  
21 developing property and any construction, reconstruction,  
22 improvement, alteration, equipment or maintenance or repair, or  
23 planning and designing in connection therewith. For the purpose of  
24 carrying out mixed use projects consisting of both housing and  
25 commercial development, the authority may enter into agreements with  
26 the New Jersey Housing and Mortgage Finance Agency for loan  
27 guarantees for any such project in accordance with the provisions of  
28 P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall  
29 allocate to the New Jersey Housing and Mortgage Finance Agency,  
30 under such agreements, funding available pursuant to subsection a. of  
31 section 4 of P.L.1992, c.16 (C.34:1B-7.13). "Project" shall not  
32 include a school facilities project.

33 "Qualified municipality" means a municipality: (1) that has been  
34 subject to the supervision of a financial review board pursuant to the  
35 "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et  
36 seq.) for at least one year; (2) that has been subject to the supervision  
37 of the Local Finance Board pursuant to the "Local Government  
38 Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) for  
39 at least one year; and (3) which, according to its most recently  
40 adopted municipal budget [on the effective date of P.L.2002, c.43  
41 (C.52:27BBB-1 et al.)], is dependent upon State aid and other State  
42 revenues for not less than 55 percent of its total budget.

43 "Regional Impact Council" or "council" means that body established  
44 pursuant to section 39 of P.L.2002, c.43 (C.52:27BBB-39).

45 "Rehabilitation term" means that period during which the qualified  
46 municipality is under the direction of the chief operating officer

1 appointed pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7).

2 "Special arbitrator" means that judge designated by the Chief  
3 Justice pursuant to section 5 of P.L.2002, c.43 (C.52:27BBB-5).

4 "State supervision" means supervision pursuant to Article 4 of the  
5 "Local Government Supervision Act (1947)," P.L.1947, c.151  
6 (C.52:27BB-54 et seq.).

7 "Treasurer" or "State treasurer" means the Treasurer of the State  
8 of New Jersey.

9 "Under rehabilitation and economic recovery" means that period  
10 which coincides with the rehabilitation term and the economic  
11 recovery term.

12 (cf: P.L.2002, c.43, s.3)

13

14 4. Section 4 of P.L.2002, c.43 (C.52:27BBB-4) is amended to read  
15 as follows:

16 4. Within 30 days of the effective date of P.L.2002, c.43  
17 (C.52:27BBB-1 et al.) and thereafter within 30 days of the deadline  
18 for the adoption of municipal budgets pursuant to the "Local Budget  
19 Law," N.J.S.40A:4-1 for each calendar or State fiscal year, as  
20 appropriate to the budget adoption schedule, the commissioner shall  
21 make a determination regarding which municipalities fulfill the  
22 definition of a qualified municipality pursuant to P.L. , c. (C.  
23  ) (pending before the Legislature as this bill) and shall notify the  
24 Governor, the State Treasurer, the mayor and each member of the  
25 governing body of each qualified municipality that the municipality is  
26 subject to the provisions of the "Municipal Rehabilitation and  
27 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). The  
28 date of the notification shall be considered the date a municipality is  
29 designated as a qualified municipality. In addition, the commissioner  
30 shall notify:

31 a. the county executive, county manager, the freeholder director  
32 or chairperson, as appropriate to the form of government, and each  
33 member of the board of chosen freeholders of each county in which is  
34 situated a qualified municipality;

35 b. the Chief Justice of the New Jersey Supreme Court; [and]

36 c. each member of the Senate and General Assembly; and

37 d. the Commissioner of Education. If the commissioner determines  
38 that any school district which is contiguous with the qualified  
39 municipality is subject to level II or level III monitoring pursuant to  
40 section 14 of P.L.1975, c.212 (C.18A:7A-14), the commissioner shall  
41 forthwith notify the Governor and the board of education of the school  
42 district that the school district is subject to the provisions of sections  
43 67 and 68 of P.L.2002, c.43 (C.52:27BBB-63 and 64).

44 Any designation of a qualified municipality made pursuant to  
45 P.L.2002, c.43 (C.52:27BBB-1 et seq.) prior to the enactment of P.L.  
46 , c. (C. ) (pending before the Legislature as this bill) is



1 continued.

2 (cf: P.L.2002, c.43, s.4)

3

4 5. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to read  
5 as follows:

6 6. a. Upon the appointment of a chief operating officer pursuant  
7 to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified  
8 municipality shall be under rehabilitation and economic recovery. This  
9 period shall begin with the assumption of job responsibilities by the  
10 chief operating officer pursuant to this section and terminate five years  
11 following the end of the term of the chief operating officer. The  
12 period corresponding with the term of the chief operating officer shall  
13 be referred to hereinafter as the rehabilitation term. The period  
14 commencing with the expiration of the term of the chief operating  
15 officer and terminating five years thereafter shall be referred to  
16 hereinafter as the economic recovery term.

17 b. During the economic recovery term, the mayor shall exercise  
18 those powers delegated to the mayor pursuant to the form of  
19 government, the charter and the administrative code of the  
20 municipality, and those powers delegated to the mayor under general  
21 law. In addition, during the economic recovery term, the mayor shall  
22 retain the power to veto the minutes of any independent board or  
23 authority, including, but not limited to, the housing authority, parking  
24 authority, redevelopment authority, planning board and board of  
25 adjustment.

26 While the municipality is under rehabilitation and economic  
27 recovery, the mayor shall retain the power to make those appointments  
28 to municipal authorities, boards or commissions, as the case may be,  
29 which is otherwise allocated to the mayor pursuant to law.

30 The mayor may retain staff for the purpose of advising the mayor  
31 and aiding in the performance of constituent services.

32 c. Upon the assumption of job responsibilities by the chief  
33 operating officer, the financial review board created pursuant to  
34 section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the  
35 finances of the municipality shall cease to function and the municipality  
36 shall cease to be under supervision pursuant to Article 4 of P.L.1947,  
37 c.151 (C.52:27BB-54 et seq.).

38 All outstanding debts or obligations incurred by ~~the~~ a qualified  
39 municipality or the New Jersey Housing and Mortgage Finance  
40 Agency established pursuant to section 4 of the "New Jersey Housing  
41 and Mortgage Finance Agency Law of 1983," P.L.1983, c.530  
42 (C.55:14K-4) and secured by a right of first refusal on municipally-  
43 owned property as of [60] 10 days following [the effective date of  
44 P.L.2002, c.43 (C.52:27BBB-1 et al.)] a determination by the  
45 commissioner that the municipality fulfills the definition of a qualified  
46 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4),

1 with any subsidiary of that agency with jurisdiction in a qualified  
2 municipality, other than those debts or obligations represented by  
3 bonds or other negotiable instruments, are forgiven.

4 Notwithstanding the termination of the financial review board and  
5 supervision, all memorandums of understanding entered into by the  
6 municipality as a condition of receiving assistance under P.L.1987,  
7 c.75 (C.52:27D-118.24 et seq.) that require the municipality to  
8 implement any government, administrative, operational efficiency or  
9 oversight measures necessary for the fiscal recovery of the  
10 municipality as recommended by the director and approved by the  
11 Local Finance Board shall continue to have full force and effect.

12 (cf: P.L.2002, c.43, s.6)

13  
14 6. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to read  
15 as follows:

16 7. a. [Within 30 days following the enactment of P.L.2002, c.43  
17 (C.52:27BBB-1 et al.)] Upon receiving notification by the  
18 Commissioner of Community Affairs pursuant to section 4 of  
19 P.L.2002, c.43 (C.52:27BBB-4), the Governor shall appoint the chief  
20 operating officer in consultation with the mayor and the governing  
21 body. The chief operating officer shall serve at the pleasure of the  
22 Governor. The chief operating officer shall be qualified by training  
23 and experience for the position and shall have at least 10 years of  
24 experience in the management or supervision of government activities,  
25 three years of which may be substituted by an advanced degree in  
26 business, law, or public administration.

27 b. Pending the appointment of a chief operating officer or, in the  
28 event of the death, resignation, removal or inability of the chief  
29 operating officer to discharge the duties of that office, the functions,  
30 powers and duties of the chief operating officer shall devolve upon the  
31 director, for the time being, until a chief operating officer is appointed  
32 or is able to discharge the duties of that office. In the event that the  
33 chief operating officer does not serve out the chief operating officer's  
34 term of office for any reason, a successor shall be chosen by the  
35 Governor.

36 c. The term of the chief operating officer shall terminate five years  
37 following the assumption of duties on the part of the chief operating  
38 officer. The chief operating officer may be hired as a State employee  
39 in the unclassified service of Title 11A, Civil Service, of the New  
40 Jersey Statutes or may be hired under contract, as provided hereunder.  
41 Notwithstanding any other provision of law, no person so appointed  
42 shall acquire tenure.

43 If the chief operating officer is hired under contract, the person  
44 hired shall meet the qualifications set forth herein, and it shall be clear  
45 from the contract that the position is full-time and that the job site  
46 shall be at the principal offices of the municipality. If, for any reason,

1 a person engaged under contract is unable to fulfill the job  
2 responsibilities of chief operating officer, the selection process shall be  
3 recommenced in accordance with the provisions of this section.

4 If the chief operating officer is hired under contract, the  
5 contract shall be available for public inspection in the office of the  
6 municipal clerk.

7 d. Subject to the approval of the commissioner, the salary,  
8 benefits and costs of the chief operating officer shall be fixed by the  
9 board and adjusted from time to time as the board deems appropriate.  
10 The salary level and benefits shall be comparable to that of the director  
11 of any public authority or agency with jurisdiction in the qualified  
12 municipality. The salary, benefits, and costs of the chief operating  
13 officer shall be an expense of the State.

14 (cf: P.L.2002, c.43, s.7)

15

16 7. Section 36 of P.L.2002, c.43 (C.52:27BBB-36) is amended to  
17 read as follows:

18 36. a. In order to facilitate the rehabilitation and economic recovery  
19 of each qualified municipality, there is created a subsidiary corporation  
20 of the New Jersey Economic Development Authority, which shall be  
21 known as the State Economic Recovery Board for (insert name of  
22 qualified municipality). The board shall operate for the period during  
23 which the municipality is under rehabilitation and economic recovery  
24 and for a period of two years thereafter. Any outstanding debts or  
25 obligations which remain at the termination of board operation shall be  
26 assumed by the authority and any accounts payable to the board shall  
27 be due and payable to the authority.

28 b. The board shall consist of 15 voting members, as follows: the  
29 mayor of the qualified municipality; a representative of the municipal  
30 governing body selected by the governing body; the chief operating  
31 officer; the State Treasurer; the Commissioner of Community Affairs;  
32 the chairperson of the authority; a representative of the regional  
33 impact council selected by the council; the director of the board of  
34 chosen freeholders of the county in which the qualified municipality is  
35 situated, as provided hereunder, all of whom shall serve ex officio and  
36 may select a designee to serve in their stead; one public member  
37 chosen by the Governor, based on the recommendation of the Senate  
38 President and one public member chosen by the Governor, based on  
39 the recommendation of the Assembly Speaker; and five public  
40 members to be appointed by the Governor, to include one  
41 representative of organized labor and one representing the business  
42 community. Of the public members appointed by the Governor, at  
43 least three shall be municipal residents. The board shall include two  
44 nonvoting ex officio legislative members to be chosen by the  
45 Governor, one of whom shall be selected based on the  
46 recommendation of the Senate President and the other upon the

1 recommendation of the Speaker of the General Assembly. These  
2 members shall be advisory members, appointed solely for the purpose  
3 of developing and facilitating legislation to assist the board in fulfilling  
4 its statutory mission, and may not exercise any of the executive  
5 powers delegated to the board. In addition, the Senior Community  
6 Builder in the State office of the federal Department of Housing and  
7 Urban Development shall serve as an ex officio, non-voting member  
8 of the board.

9 A majority of the entire authorized voting membership of the board  
10 shall constitute a quorum at any meeting thereof.

11 c. Each public member shall serve for a term of five years.  
12 Vacancies in the public membership of the board shall be filled in the  
13 same manner as the original appointments are made and a member may  
14 be eligible for reappointment. Vacancies occurring other than by  
15 expiration of a term shall be filled for the unexpired term. Each ex  
16 officio member shall serve for the period during which the municipality  
17 is under rehabilitation and economic recovery and for a period of two  
18 years thereafter.

19 The Governor shall designate the chairperson of the board.

20 d. The board shall be appointed as expeditiously as possible upon  
21 the [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)]  
22 determination by the commissioner that the municipality fulfills the  
23 definition of a qualified municipality pursuant to section 4 of P.L.2002,  
24 c.43 (C.52:27BBB-4) and shall convene not later than 30 days  
25 following [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)] that  
26 determination for its organizational meeting. Thereafter, the board  
27 shall meet regularly and on not less than a quarterly basis. At its first  
28 organizational meeting, the board shall appoint one of the public  
29 members to serve as its designee on the New Jersey Economic  
30 Development Authority pursuant to section 4 of P.L.1974, C.80 as  
31 amended by section 69 of P.L.2002, c.43 (C.34:1B-4).

32 e. The voting authority of the director of the county board of  
33 chosen freeholders shall not become effective until the filing with the  
34 Secretary of State of an agreement entered into by the chief operating  
35 officer, acting on behalf of the municipality, and the county, detailing  
36 the financial commitment of the county to the redevelopment of the  
37 infrastructure of the municipality which shall include improvements or  
38 other economic benefits totalling not less than \$20 million and a  
39 proposed construction schedule for the completion thereof.

40 (cf: P.L.2002, c.43, s.36)

41

42 8. Section 39 of P.L.2002, c.43 (C.52:27BBB-39) is amended to  
43 read as follows:

44 39. a. There is established for each qualified municipality a regional  
45 impact council to serve for that period during which the municipality  
46 is under rehabilitation and economic recovery. The council shall

1 consist of: the mayor of the qualified municipality or his or her  
2 designee; the mayor of any municipality in the county in which the  
3 qualified municipality is situated which on or before the [effective date  
4 of P.L.2002, c.43 (C.52:27BBB-1 et al.)] determination by the  
5 commissioner that the municipality fulfills the definition of a qualified  
6 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
7 has participated in a regional collaborative established to further the  
8 strategic revitalization of the qualified municipality or the mayor's  
9 designee; the director of the board of chosen freeholders of the county  
10 in which the qualified municipality is situated or his or her designee;  
11 the director of the Office of State Planning or his or her designee; one  
12 representative of the New Jersey Regional Coalition, to be appointed  
13 as provided hereinafter; and four public members, two of whom shall  
14 be appointed by the Governor, one of whom shall be appointed by the  
15 Senate President and one of whom shall be appointed by the Speaker  
16 of the General Assembly. In the event that a regional collaborative has  
17 not been established in the county in which the qualified municipality  
18 is situated, the regional impact council shall include the mayor of each  
19 municipality that borders on the qualified municipality. The four  
20 public members shall include at least one member of the faith-based  
21 community within the region; one member of the business community;  
22 one member of the higher education community; and one member of  
23 the labor community within the region.

24 b. Within 30 days of [the effective date of P.L.2002, c.43  
25 (C.52:27BBB-1 et al.)] a determination by the commissioner that a  
26 municipality fulfills the definition of a qualified municipality pursuant  
27 to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the New Jersey  
28 Regional Coalition shall submit to the Governor three nominees for  
29 consideration, from which the Governor may choose. If the  
30 organization does not submit three nominees for consideration at any  
31 time required, the Governor may appoint a member of the Governor's  
32 choice.

33 c. No member of the council shall receive a salary for service on  
34 the council but shall be reimbursed for reasonable and necessary  
35 expenses associated with serving on the council.

36 d. A majority of the members of the council shall choose one of  
37 the members to serve as the chair. Each member of the council shall  
38 serve for a two-year term and, upon expiration of that term, may be  
39 reappointed. Vacancies among the membership shall be filled in the  
40 same manner in which the original appointment was made.

41 e. The council shall select an appropriate location or locations in  
42 which to meet. The council may adopt its own bylaws and procedures  
43 that are not inconsistent with P.L.2002, c.43 (C.52:27BBB-1 et al.).

44 f. The council shall be eligible for and may employ a consultant  
45 and such staff as it deems necessary, to the extent that funds are made  
46 available pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or other

1 sources. The council may call upon the commissioner for such  
2 assistance as it deems necessary.

3 g. The council may hold public hearings at the call of the chair  
4 and pursuant to the "Open Public Meetings Act," P.L.1975, c.231  
5 (C.10:4-6 et seq.).  
6 (cf: P.L.2002, c.43, s.39)

7

8 9. Section 45 of P.L.2002, c.43 (C.52:27BBB-44) is amended to  
9 read as follows:

10 45. a. The board shall prepare and submit a project list, as provided  
11 hereunder. The list shall be consistent with the strategic revitalization  
12 plan and capital improvement and infrastructure plans for the qualified  
13 municipality to the extent practicable and shall include a series of  
14 projects which are prioritized according to their importance in  
15 revitalizing the qualified municipality.

16 Following [the enactment of P.L.2002, c.43 (C.52:27BBB-1 et  
17 al.)] a determination by the commissioner that a municipality fulfills  
18 the definition of a qualified municipality pursuant to section 4 of  
19 P.L.2002, c.43 (C.52:27BBB-4) and the preparation of the plans  
20 mentioned above, the capital and infrastructure needs shall be assessed  
21 and projects shall be anticipated over a three-year period. The bond  
22 moneys authorized to be issued pursuant to section 47 of P.L.2002,  
23 c.43 (C.52:27BBB-46) shall be expended over a three year period.

24 The board shall adopt each project list by a majority of those  
25 members present. In the event that the board selects to rescind a  
26 project from the list, such a vote shall be by a two-thirds vote of the  
27 fully authorized membership thereof.

28 Each project list shall be submitted to the Commission on Capital  
29 Budgeting and Planning, the Chairperson of the Senate Appropriations  
30 Committee and the Chairperson of the Assembly Appropriations  
31 Committee, or their successors, and the Legislative Budget and  
32 Finance Officer, on or before March 1 of each year.

33 b. The President of the Senate and the Speaker of the General  
34 Assembly shall cause the date of submission of the project list to be  
35 entered upon the Senate Journal and the Minutes of the General  
36 Assembly.

37 c. On or before March 1 of each year, the board shall submit a  
38 report of general project categories and proposed projects thereunder  
39 to be financed in the ensuing fiscal year, including therewith a  
40 description of the projects, the county or counties within which they  
41 are to be located, a distinction between State, local and private  
42 projects, and the amount estimated to be expended on each project.  
43 This report shall be known as the "Annual Qualified Municipality  
44 Capital and Economic Recovery Program" for the upcoming fiscal  
45 year. The program shall be consistent with, and reflective of, the goals  
46 and priorities of the Strategic Revitalization Plan, capital improvement

1 and infrastructure plan, and the program shall include an explanation  
2 which demonstrates how it is consistent with, and reflective of, the  
3 goals and priorities.

4 d. On or before August 1 of each year, the board shall also submit  
5 a "Qualified Municipality Capital and Economic Recovery Financial  
6 Plan" designed to implement the financing of the proposed projects.  
7 The financial plan shall contain an enumeration of the bonds, notes or  
8 other obligations of the authority which the authority intends to issue,  
9 including the amounts thereof and the conditions therefor.

10 In addition, the plan shall contain proposed amounts to be  
11 appropriated and expended, as well as amounts for which the authority  
12 anticipates to obligate during the ensuing fiscal year for any future  
13 expenditures.

14 (cf: P.L.2002, c.43, s.45)

15

16 10. Section 54 of P.L.2002, c.43 (C.52:27BBB-53) is amended to  
17 read as follows:

18 54. As used in this section and section 55 of P.L.2002, c.43  
19 (C.52:27BBB-54):

20 a. "Business facility" means any factory, mill, plant, refinery,  
21 warehouse, building, complex of buildings or structural components  
22 of buildings, and all machinery, equipment and personal property  
23 located within a qualified municipality, used in connection with the  
24 operation of the business of a corporation that is subject to the tax  
25 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and  
26 all facility preparation and start-up costs of the taxpayer for the  
27 business facility which it capitalizes for federal income tax purposes.

28 b. "Business relocation or business expansion property" means  
29 improvements to real property and tangible personal property, but only  
30 if that improvement or personal property is constructed or purchased  
31 and placed in service or use by the taxpayer, for use as a component  
32 part of a new or expanded business facility located in a qualified  
33 municipality.

34 (1) Business relocation or business expansion property shall  
35 include only:

36 (a) improvements to real property placed in service or use as a  
37 business facility by the taxpayer on or after the [operative date of  
38 P.L.2002, c.43 (C.52:27BBB-1 et al.) by the taxpayer] notification of  
39 the Governor by the commissioner pursuant to section 4 of P.L.2002,  
40 c.43 (C.52:27BBB-4) that the municipality in which the property is  
41 situated fulfills the definition of a qualified municipality;

42 (b) tangible personal property placed in service or use by the  
43 taxpayer on or after the [operative date of P.L.2002, c.43  
44 (C.52:27BBB-1 et al.)] notification of the Governor by the  
45 commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
46 that the municipality in which the property is situated fulfills the

1 definition of a qualified municipality, with respect to which  
2 depreciation, or amortization in lieu of depreciation, is allowable in  
3 determining the corporation business tax liability of the taxpayer under  
4 P.L.1945, c.162, and which has a remaining recovery period of three  
5 or more years at the time the property is placed in service or use in a  
6 qualified municipality; or

7 (c) tangible personal property owned and used by the taxpayer at  
8 a business location outside a qualified municipality which is moved  
9 into a qualified municipality on or after the [effective date of  
10 P.L.2002, c.43 (C.52:27BBB-1 et al.)] notification of the Governor  
11 by the commissioner pursuant to section 4 of P.L.2002, c.43  
12 (C.52:27BBB-4) that the municipality in which the property is situated  
13 fulfills the definition of a qualified municipality, for use as a  
14 component part of a new or expanded business facility located in the  
15 qualified municipality; provided that the property is depreciable or  
16 amortizable personal property for income tax purposes, and has a  
17 remaining recovery period of three or more years at the time the  
18 property is placed in service or use in a qualified municipality.

19 (2) Property purchased for business relocation or expansion shall  
20 not include:

21 (a) repair costs, including materials used in the repair, unless for  
22 federal income tax purposes, the cost of the repair must be capitalized  
23 and not expensed;

24 (b) airplanes;

25 (c) property which is primarily used outside a qualified  
26 municipality with that use being determined based upon the amount of  
27 time the property is actually used both within and without the qualified  
28 municipality;

29 (d) property which is acquired incident to the purchase of the stock  
30 or assets of the seller.

31 (3) Property shall be deemed to have been purchased prior to a  
32 specified date only if:

33 (a) the physical construction, reconstruction or erection of the  
34 property was begun prior to the specified date, or such property was  
35 constructed, reconstructed, erected or acquired pursuant to a written  
36 contract as existing and binding on the purchase prior to the specified  
37 date; or

38 (b) the machinery or equipment was owned by the taxpayer prior  
39 to the specified date, or was acquired by the taxpayer pursuant to a  
40 binding purchase contract which was in effect prior to the specified  
41 date.

42 c. "Business relocation or expansion" means capital investment in  
43 a new or expanded business facility in a qualified municipality.

44 d. "Controlled group" means one or more chains of corporations  
45 connected through stock ownership with a common parent corporation  
46 if stock possessing at least 50% of the voting power of all classes of



1 stock of each of the corporations is owned directly or indirectly by one  
2 or more of the corporations; and the common parent owns directly  
3 stock possessing at least 50% of the voting power of all classes of  
4 stock of at least one of the other corporations.

5 e. "Director" means the Director of the Division of Taxation in  
6 the Department of the Treasury.

7 f. "Expanded business facility" means any business facility, other  
8 than a new business facility, resulting from acquisition, construction,  
9 reconstruction, installation or erection of improvements or additions  
10 to existing property if such improvements or additions are purchased  
11 on or after the effective date of rehabilitation and economic recovery.

12 g. "Incentive payment" means: the amount of tax owed by a  
13 taxpayer for a privilege period, as computed pursuant to section 5 of  
14 P.L.1945, c.162 (C.54:10A-5), multiplied by a fraction, the numerator  
15 of which is the average value of the taxpayer's business relocation or  
16 business expansion property within a qualified municipality during the  
17 period covered by its report, and the denominator of which is the  
18 average value of all the taxpayer's real and tangible personal property  
19 in New Jersey during such period which result is multiplied by 96  
20 percent; provided, however, that for the purpose of determining  
21 average value, the provisions with respect to depreciation as set forth  
22 in subparagraph (F) of paragraph (2) of subsection (k) of section 4 of  
23 P.L.1945, c.162 (C.54:10A-4) shall be taken into account for arriving  
24 at such value; and provided further that incentive payments shall be  
25 made for a period not to exceed 10 years, commencing on the date of  
26 a taxpayer's first acquisition of business relocation or business  
27 expansion property in the qualified municipality following the  
28 [operative date of P.L.2002, c.43 (C.52:27BBB-1 et al.)] notification  
29 of the Governor by the commissioner pursuant to section 4 of  
30 P.L.2002, c.43 (C.52:27BBB-4) that the municipality in which the  
31 property is situated fulfills the definition of a qualified municipality.

32 h. "New business facility" means a business facility which:

33 (1) is employed by a taxpayer in the conduct of a business which  
34 is or will be taxable under P.L.1945, c.162 (C.54:10A-1 et seq.). A  
35 business facility shall not be considered a new business facility in the  
36 hands of a taxpayer if the taxpayer's only activity with respect to the  
37 facility is to lease it to another person;

38 (2) is purchased by a taxpayer and is placed in service or use on or  
39 after the effective date of rehabilitation and economic recovery;

40 (3) was not purchased by a taxpayer from a related person; and

41 (4) was not in service or use during the 90-day period immediately  
42 prior to transfer of the title to the facility.

43 i. "Partnership" means a syndicate, group, pool, joint venture or  
44 other unincorporated organization through or by means of which any  
45 business, financial operation or venture is carried on, and which is not  
46 a trust or estate, a corporation or a sole proprietorship. The term

1 "partner" includes a member in such a syndicate, group, pool, joint  
2 venture or organization.

3 j. "Purchase" means, with respect to the determination of whether  
4 business relocation or business expansion property was purchased, any  
5 acquisition of property, including an acquisition pursuant to a lease,  
6 but only if:

7 (1) the property is not acquired from a person whose relationship  
8 to the person acquiring it would result in the disallowance of  
9 deductions under section 267 or subsection (b) of section 707 of the  
10 federal Internal Revenue Code of 1986, 26 U.S.C.s.267 or s.707;

11 (2) the property is not acquired by one member of a controlled  
12 group from another member of the same controlled group; and

13 (3) the basis of the property for federal income tax purposes, in the  
14 hands of the person acquiring it, is not determined:

15 (a) in whole or in part by reference to the federal adjusted basis of  
16 such property in the hands of the person from whom it was acquired;

17 or

18 (b) under subsection (e) of section 1014 of the federal Internal  
19 Revenue Code of 1986, 26 U.S.C. s.1014.

20 k. "Related person" means:

21 (1) a corporation, partnership, association or trust controlled by  
22 the taxpayer;

23 (2) an individual, corporation, partnership, association or trust that  
24 is in control of the taxpayer;

25 (3) a corporation, partnership, association or trust controlled by an  
26 individual, corporation, partnership, association or trust that is in  
27 control of the taxpayer; or

28 (4) a member of the same controlled group as the taxpayer.

29 (cf: P.L.2002, c.43, s.54)

30

31 11. Section 60 of P.L.2002, c.43 (C.52:27BBB-58) is amended to  
32 read as follows:

33 60. In order to fulfill its obligation to establish an affirmative action  
34 program for the hiring of minority and female workers employed in the  
35 performance of construction contracts undertaken in connection with  
36 a project undertaken or financed by the authority pursuant to  
37 P.L.2002, c.43 (C.52:27BBB-1 et al.) in a qualified municipality, the  
38 authority shall comply with all requirements for pre-apprenticeship and  
39 apprenticeship applicable to the authority in that qualified municipality  
40 on or after the [effective date of P.L.2002, c.43 (C.52:27BBB-1 et  
41 al.)] determination by the commissioner that the municipality fulfills  
42 the definition of a qualified municipality pursuant to section 4 of  
43 P.L.2002, c.43 (C.52:27BBB-4).

44 (cf: P.L.2002, c.43, s.60)

45

46 12. Section 66 of P.L.2002, c.43 (C.52:27BBB-62) is amended to

1 read as follows:

2 66. Upon the [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)]  
3 date upon which the commissioner determines that the municipality  
4 fulfills the definition of a qualified municipality pursuant to section 4  
5 of P.L.2002, c.43 (C.52:27BBB-4) and during the rehabilitation term,  
6 there shall be a moratorium on regional contribution agreements  
7 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) in any qualified  
8 municipality.  
9 (cf: P.L.2002, c.43, s.66)

10

11 13. Section 67 of P.L.2002, c.43 (C.52:27BBB-63) is amended to  
12 read as follows:

13 67. a. [Notwithstanding the provisions of any law to the contrary,  
14 in the case of a Type II school district which is contiguous with a  
15 qualified municipality and which has a nine-member board of  
16 education, the Governor shall appoint three additional members to the  
17 board of education upon the enactment of P.L.2002, c.43  
18 (C.52:27BBB-1 et al.). The appointed members shall be voting  
19 members of the board who shall serve at the pleasure of the Governor  
20 for three-year terms and they shall be eligible for reappointment. Two  
21 members shall be residents of the qualified municipality and one  
22 member shall be employed in the qualified municipality.

23 b. At the first organizational meeting conducted pursuant to  
24 N.J.S.18A:10-3 following the establishment of the qualified  
25 municipality, the voting membership of the board of education shall be  
26 comprised of the three members appointed by the Governor pursuant  
27 to subsection a. of this section and any member of the board of  
28 education as comprised prior to the establishment of a qualified  
29 municipality with an unexpired term.

30 c. At the second organizational meeting conducted pursuant to  
31 N.J.S.18A:10-3 following the establishment of the qualified  
32 municipality, the voting membership of the board of education shall be  
33 comprised of the three members appointed by the Governor pursuant  
34 to subsection a. of this section, three members appointed by the mayor  
35 of the qualified municipality with the advice and consent of the city  
36 council and any member of the board of education as comprised prior  
37 to the establishment of a qualified municipality with an unexpired term.  
38 Members appointed by the mayor, with the advice and consent of the  
39 city council shall serve three-year terms and shall be eligible for  
40 reappointment.

41 d. There shall be no school election of school board members  
42 conducted in the first two years following the establishment of a  
43 qualified municipality. In the third year following the establishment of  
44 the qualified municipality, a school election of school board members  
45 shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.)  
46 and three members of the board of education shall be elected by the

1 voters to serve three-year terms.

2 e. In the fourth year and each subsequent year thereafter, up until  
3 the tenth year following the establishment of the qualified municipality,  
4 members shall be appointed or elected as provided hereinabove upon  
5 the expiration of the members' terms. In the tenth year following the  
6 establishment of the qualified municipality, a school election of school  
7 board members shall be conducted pursuant to P.L.1995, c.278  
8 (C.19:60-1 et seq.) and three members of the board of education shall  
9 be elected by the voters to fill the vacancies of the Governor's  
10 appointees whose terms expire. The elected members shall serve  
11 three-year terms. In the eleventh year following the establishment of  
12 the qualified municipality, a school election of school board members  
13 shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.)  
14 and three members of the board of education shall be elected by the  
15 voters to fill the vacancies of the mayor's appointees whose terms  
16 expire. The elected members shall serve three-year terms. In the  
17 twelfth year following the establishment of the qualified municipality  
18 and each year thereafter successors to the members whose terms  
19 expire shall be elected for three-year terms as provided by law.

20 f.] The membership of the board of education serving in a school  
21 district which is contiguous with a qualified municipality and which is  
22 subject to level II monitoring or level III monitoring pursuant to  
23 section 14 of P.L.1975, c.212 (C.18A:7A-14) shall be increased as set  
24 forth in this section in order to ensure the State's and the  
25 municipality's ability to participate in the activities of the board.  
26 Board members appointed by the Governor or mayor shall be voting  
27 members of the board and shall have all the rights, powers and  
28 privileges of a member of the board. Members appointed by the  
29 Governor or mayor shall serve at the pleasure of the Governor or  
30 mayor, as appropriate. Any vacancy in the membership appointed by  
31 the Governor or mayor shall be filled in the same manner as the  
32 original appointment, but for the unexpired term only. The first  
33 members appointed by the Governor shall serve for a term  
34 commencing upon appointment and qualification and ending three  
35 years from the date that the number of members of the board returns  
36 to the number on the board prior to the designation of the qualified  
37 municipality. Members appointed thereafter shall serve for a term of  
38 three years as provided in this section.

39 In order to ensure substantial local representation on any such  
40 board, in no case shall the number of the positions appointed by the  
41 mayor and elected by the voters, combined, constitute less than a  
42 majority of the total positions on the board. This section shall not  
43 apply to State-operated school districts established pursuant to  
44 P.L.1987, c.399 (C. 18A:7A-34 et seq.).

45 b. The membership of a type I board of education in a qualified  
46 municipality consisting of five members shall be temporarily increased

1 to include two additional members to be appointed by the Governor  
2 upon receipt of notification by the Commissioner of Education  
3 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of  
4 three years, as set forth in subsection a. of this section. The first two  
5 positions on the board, the terms of which expire after the designation  
6 of a qualified municipality, shall be abolished upon expiration of their  
7 terms and shall not be filled by mayoral appointments so that the total  
8 membership of the board returns to five members. The Governor shall  
9 continue to make appointments to fill the positions held by the  
10 gubernatorial appointees, when their terms expire or when a vacancy  
11 occurs, until after the tenth year following the designation of the  
12 qualified municipality. Beginning in the first year following the tenth  
13 year after the designation of the qualified municipality, vacancies  
14 resulting from the expiration of a term, or for any other reason, in any  
15 position on the board filled by gubernatorial appointment shall be filled  
16 in the same manner as provided before the designation of the qualified  
17 municipality.

18 c. The membership of a type I board of education in a qualified  
19 municipality consisting of seven members shall be temporarily  
20 increased to include three additional members to be appointed by the  
21 Governor upon receipt of notification by the Commissioner of  
22 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
23 for a term of three years, as set forth in subsection a. of this section.  
24 The first three positions on the board, the terms of which expire after  
25 the designation of a qualified municipality, shall be abolished upon  
26 expiration of their terms and shall not be filled by mayoral  
27 appointments so that the total membership of the board returns to  
28 seven members. The Governor shall continue to make appointments  
29 to fill the positions held by gubernatorial appointees, when their terms  
30 expire or when a vacancy occurs, until after the tenth year following  
31 the designation of the qualified municipality. Beginning in the first  
32 year following the tenth year after the designation of the qualified  
33 municipality, vacancies resulting from the expiration of a term, or for  
34 any other reason, in any position on the board filled by gubernatorial  
35 appointment shall be filled in the same manner as provided before the  
36 designation of the qualified municipality.

37 d. The membership of a type I board of education in a qualified  
38 municipality consisting of nine members shall be temporarily increased  
39 to include three additional members to be appointed by the Governor  
40 upon receipt of notification by the Commissioner of Education  
41 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of  
42 three years as set forth in subsection a. of this section. The first three  
43 positions on the board, the terms of which expire after the designation  
44 of a qualified municipality, shall be abolished upon expiration of their  
45 terms and shall not be filled by mayoral appointments so that the total  
46 membership of the board returns to nine members. The Governor shall

1 continue to make appointments to fill the positions held by  
2 gubernatorial appointees, when their terms expire or when a vacancy  
3 occurs, until after the tenth year following the designation of the  
4 qualified municipality. Beginning in the first year following the tenth  
5 year after the designation of the qualified municipality, vacancies  
6 resulting from the expiration of a term, or for any other reason, in any  
7 position on the board filled by gubernatorial appointment shall be filled  
8 in the same manner as provided before the designation of the qualified  
9 municipality.

10 e. The membership of a type II board of education in a qualified  
11 municipality consisting of three members shall be temporarily  
12 increased to include one additional member to be appointed by the  
13 Governor upon receipt of notification by the Commissioner of  
14 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
15 for a term of three years as set forth in subsection a. of this section.  
16 The first position on the board, the term of which expires after the  
17 designation of a qualified municipality, shall be abolished upon  
18 expiration of its term and shall not be filled in the same manner as  
19 provided before the designation of the qualified municipality so that  
20 the total membership of the board returns to three members. The  
21 Governor shall continue to make appointments to fill the position held  
22 by a gubernatorial appointee when the term expires or when a vacancy  
23 occurs, until after the tenth year following the designation of the  
24 qualified municipality. Beginning in the first year following the tenth  
25 year after the designation of the qualified municipality, a vacancy  
26 resulting from the expiration of the term in the position on the board  
27 filled by gubernatorial appointment shall be filled in the same manner  
28 as provided before the designation of the qualified municipality.

29 The second position on the board, the term of which expires after  
30 the designation of a qualified municipality, shall be abolished upon  
31 expiration of its term and shall not be filled in the same manner as  
32 provided before the designation of the qualified municipality. Instead,  
33 the vacancy shall be filled by a mayoral appointment as described in  
34 subsection a. of this section so that the total membership of the board  
35 remains at three. Mayoral appointees shall serve for a term of three  
36 years. The mayor shall continue to make appointments to fill the  
37 position held by a mayoral appointee when the term expires or when  
38 a vacancy occurs, until after the tenth year following the designation  
39 of the qualified municipality. Beginning in the first year following the  
40 tenth year after the designation of the qualified municipality, a vacancy  
41 resulting from the expiration of the term in the position on the board  
42 filled by mayoral appointment shall be filled in the same manner as  
43 provided before the designation of the qualified municipality.

44 f. The membership of a type II board of education in a qualified  
45 municipality consisting of five members shall be temporarily increased  
46 to include two additional members to be appointed by the Governor

1 upon receipt of notification by the Commissioner of Education  
2 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of  
3 three years as set forth in subsection a. of this section. The first two  
4 positions on the board, the terms of which expire after the designation  
5 of a qualified municipality, shall be abolished upon expiration of their  
6 terms and shall not be filled in the same manner as provided before the  
7 designation of the qualified municipality so that the total membership  
8 of the board returns to five members. The Governor shall continue to  
9 make appointments to fill the positions held by gubernatorial  
10 appointees when the terms expire or when a vacancy occurs, until after  
11 the tenth year following the designation of the qualified municipality.  
12 Beginning in the first year following the tenth year after the  
13 designation of the qualified municipality, vacancies resulting from the  
14 expiration of a term in any position on the board filled by gubernatorial  
15 appointment shall be filled in the same manner as provided before the  
16 designation of the qualified municipality.

17 The third position on the board, the term of which expires after the  
18 designation of a qualified municipality, shall be abolished upon  
19 expiration of its term and shall not be filled in the same manner as  
20 provided before the designation of the qualified municipality. Instead,  
21 the vacancy shall be filled by a mayoral appointment as described in  
22 subsection a. of this section so that the total membership of the board  
23 remains at five. Mayoral appointees shall serve for a term of three  
24 years. The mayor shall continue to make appointments to fill the  
25 position held by a mayoral appointee when the term expires or when  
26 a vacancy occurs, until after the tenth year following the designation  
27 of the qualified municipality. Beginning in the first year following the  
28 tenth year after the designation of the qualified municipality, a vacancy  
29 resulting from the expiration of the term in the position on the board  
30 filled by mayoral appointment shall be filled in the same manner as  
31 provided before the designation of the qualified municipality.

32 g. The membership of a type II board of education in a qualified  
33 municipality consisting of seven members shall be temporarily  
34 increased to include three additional members to be appointed by the  
35 Governor upon receipt of notification by the Commissioner of  
36 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
37 for a term of three years as set forth in subsection a. of this section.  
38 The first three positions on the board, the terms of which expire after  
39 the designation of a qualified municipality, shall be abolished upon  
40 expiration of their terms and shall not be filled in the same manner as  
41 provided before the designation of the qualified municipality so that  
42 the total membership of the board returns to seven members. The  
43 Governor shall continue to make appointments to fill the positions held  
44 by gubernatorial appointees when the terms expire or when a vacancy  
45 occurs, until after the tenth year following the designation of the  
46 qualified municipality. Beginning in the first year following the tenth

1 year after the designation of the qualified municipality, vacancies  
2 resulting from the expiration of a term in any position on the board  
3 filled by gubernatorial appointment shall be filled in the same manner  
4 as provided before the designation of the qualified municipality.

5 The fourth and fifth positions on the board, the terms of which  
6 expire after the designation of a qualified municipality, shall be  
7 abolished upon expiration of their terms and shall not be filled in the  
8 same manner as provided before the designation of the qualified  
9 municipality. Instead, the vacancies shall be filled by mayoral  
10 appointments as described in subsection a. of this section so that the  
11 total membership of the board remains at seven. Mayoral appointees  
12 shall serve for a term of three years. The mayor shall continue to  
13 make appointments to fill the positions held by mayoral appointees  
14 when the terms expire or when a vacancy occurs, until after the tenth  
15 year following the designation of the qualified municipality. Beginning  
16 in the first year following the tenth year after the designation of the  
17 qualified municipality, vacancies resulting from the expiration of a  
18 term in any position on the board filled by mayoral appointment shall  
19 be filled in the same manner as provided before the designation of the  
20 qualified municipality.

21 h. The membership of a type II board of education in a qualified  
22 municipality consisting of nine members shall be temporarily increased  
23 to include three additional members to be appointed by the Governor  
24 upon receipt of notification by the Commissioner of Education  
25 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of  
26 three years as set forth in subsection a. of this section. The first three  
27 positions on the board, the terms of which expire after the designation  
28 of a qualified municipality, shall be abolished upon expiration of their  
29 terms and shall not be filled in the same manner as provided before the  
30 designation of the qualified municipality so that the total membership  
31 of the board returns to nine members. The Governor shall continue to  
32 make appointments to fill the positions held by gubernatorial  
33 appointees when the terms expire or when a vacancy occurs, until after  
34 the tenth year following the designation of the qualified municipality.  
35 Beginning in the first year following the tenth year after the  
36 designation of the qualified municipality, vacancies resulting from the  
37 expiration of a term in any position on the board filled by gubernatorial  
38 appointment shall be filled in the same manner as provided before the  
39 designation of the qualified municipality.

40 The fourth, fifth and sixth positions on the board, the terms of  
41 which expire after the designation of a qualified municipality, shall be  
42 abolished upon expiration of their terms and shall not be filled in the  
43 same manner as provided before the designation of the qualified  
44 municipality. Instead, the vacancies shall be filled by mayoral  
45 appointment as described in subsection a. of this section so that the  
46 total membership of the board remains at nine. Mayoral appointees



1 shall serve for a term of three years. The mayor shall continue to  
2 make appointments to fill the positions held by mayoral appointees  
3 when the terms expire or when a vacancy occurs, until after the tenth  
4 year following the designation of the qualified municipality. Beginning  
5 in the first year following the tenth year after the designation of the  
6 qualified municipality, vacancies resulting from the expiration of a  
7 term in any position on the board filled by mayoral appointment shall  
8 be filled in the same manner as provided before the designation of the  
9 qualified municipality.

10 i. At all times the board of education and its membership shall  
11 comply with the requirements of the "Open Public Meetings Act,"  
12 P.L.1975, c.231 (C.10:4-6 et seq.) and the "School Ethics Act,"  
13 P.L.1991, c.393 (C.18A:12-21 et seq.), and meet the requirements and  
14 qualifications for board membership established pursuant to chapter 12  
15 of Title 18A of the New Jersey Statutes.

16 (cf: P.L.2002, c.43, s.67)

17  
18 14. Section 68 of P.L.2002, c.43 (C.52:27BBB-64) is amended to  
19 read as follows:

20 68. a. Notwithstanding the provisions of Title 18A or any other  
21 law, rule, or regulation to the contrary, the minutes of every meeting  
22 of the board of education of a school district contiguous with a  
23 qualified municipality [and constituted pursuant to N.J.S.18A:9-3]  
24 subject to level II or level III monitoring and identified by the  
25 commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
26 shall be subject to the veto provisions set forth in subsection b. of this  
27 section. This section shall not apply to State-operated school districts  
28 established pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.).

29 b. A true copy of the minutes of every meeting of a board of  
30 education described in subsection a. of this section shall be forthwith  
31 delivered by and under the certification of the secretary thereof to the  
32 Governor. No action taken at that meeting of the board of education  
33 shall have force or effect until 15 days after a copy of the minutes shall  
34 have been so delivered unless during that 15-day period the Governor  
35 shall approve those minutes, in which case the action shall become  
36 effective upon that approval. If, in the 15-day period, the Governor  
37 returns the copy of those minutes with a veto of any action taken by  
38 the board of education or any member thereof at that meeting, the  
39 action shall be null and void and of no effect.

40 (cf: P.L.2002, c.43, s.68)

41  
42 15. Section 8 of P.L.1983, c.530 (C.55:14K-8) is amended to read  
43 as follows:

44 8. a. Admission to housing projects constructed, improved or  
45 rehabilitated under this act shall be limited to families whose gross  
46 aggregate family income at the time of admission does not exceed six

1 times the annual rental or carrying charges, including the value or cost  
2 to them of heat, light, water, sewerage, parking facilities and cooking  
3 fuel, of the dwellings that may be furnished to such families, or seven  
4 times those charges if there are three or more dependents. There may  
5 be included in the carrying charges to any family for residence in any  
6 mutual housing project constructed, improved or rehabilitated with a  
7 loan from the agency an amount equal to 6% of the original cash  
8 investment of the family in the mutual housing project and, to the  
9 extent authorized by the agency where not included in the carrying  
10 charges, the value or cost of repainting the apartment and replacing  
11 any fixtures or appliances. Notwithstanding the provisions of this  
12 section, no family or individual shall be eligible for admission to any  
13 housing project constructed, improved or rehabilitated with a loan  
14 from the agency, whose gross aggregate family income exceeds such  
15 amount as shall be established from time to time by the agency, by  
16 rules or regulations promulgated hereunder; except that with respect  
17 to any project financed by an agency loan insured or guaranteed by the  
18 United States of America or any agency or instrumentality thereof, the  
19 agency may adopt the admission standards for such projects then  
20 currently utilized or required by the guarantor or insurer.

21 The provisions of this subsection shall not apply to any housing  
22 project situated in a qualified municipality that is constructed,  
23 improved or rehabilitated on or after the [effective date of P.L.2002,  
24 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner  
25 determines that the municipality fulfills the definition of a qualified  
26 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

27 b. The agency shall by rules and regulations provide for the  
28 periodic examination of the income of any person or family residing in  
29 any housing project constructed, improved or rehabilitated with a loan  
30 from the agency. If the gross aggregate family income of a family  
31 residing in a housing project increases and the ratio to the current  
32 rental or carrying charges of the dwelling unit becomes greater than  
33 the ratio prescribed for admission in subsection a. of this section but  
34 is not more than 25% above the family income so prescribed for  
35 admission to the project, the owner or managing agent of the housing  
36 project shall permit the family to continue to occupy the unit. The  
37 agency or (with the approval of the agency) the housing sponsor of  
38 any housing project constructed, improved or rehabilitated with a loan  
39 from the agency, may terminate the tenancy or interest of any family  
40 residing in the housing project whose gross aggregate family income  
41 exceeds by 25% or more the amount prescribed herein and which  
42 continues to do so for a period of six months or more; but no tenancy  
43 or interest of any such family in any such housing project shall be  
44 terminated except upon reasonable notice and opportunity to obtain  
45 suitable alternate housing, in accordance with rules and regulations of  
46 the agency; and any such family, with the approval of the agency, may

1 be permitted to continue to occupy the unit, subject to payment of a  
2 rent or carrying charge surcharge to the housing sponsor in  
3 accordance with a schedule of surcharges fixed by the agency. The  
4 housing sponsor shall pay the surcharge to the municipality granting  
5 tax exemption, but only up to an amount that together with payments  
6 made to the municipality in lieu of taxes and for any land taxes equals  
7 25% of the total rents or carrying charges of the housing project for  
8 the current and any prior years that the project has been in operation.

9 The provisions of this subsection shall not apply to any housing  
10 project situated in a qualified municipality that is constructed,  
11 improved or rehabilitated on or after the [effective date of P.L.2002,  
12 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner  
13 determines that the municipality fulfills the definition of a qualified  
14 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

15 c. For projects on which the agency has made a loan and financed  
16 the loan with the proceeds of bonds issued prior to January 1, 1973,  
17 any remainder of the surcharge, or the total surcharge if tax exemption  
18 has not been granted, shall be paid into the housing finance fund  
19 securing the bonds issued to finance the project for the use of the  
20 agency; for projects financed on or after January 1, 1973, any  
21 remainder of the surcharge, or the total surcharge if tax exemption has  
22 not been granted, shall be paid to the agency.

23 d. Any family residing in a mutual housing project required to  
24 remove from the project because of excessive income as herein  
25 provided shall be discharged from liability on any note, bond or other  
26 evidence of indebtedness relating thereto and shall be reimbursed, in  
27 accordance with the rules of the agency, for all sums paid by the family  
28 to the housing sponsor on account of the purchase of stock or  
29 debentures as a condition of occupancy or on account of the  
30 acquisition of title for such purpose.

31 The provisions of this subsection shall not apply to any housing  
32 project situated in a qualified municipality that is constructed,  
33 improved or rehabilitated on or after the [effective date of P.L.2002,  
34 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner  
35 determines that the municipality fulfills the definition of a qualified  
36 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

37 e. The agency shall establish admission rules and regulations for  
38 any housing project financed in whole or in part by loans authorized  
39 hereunder which shall provide priority categories for person displaced  
40 by urban renewal projects, highway programs or other public works,  
41 persons living in substandard housing, persons and families who, by  
42 reason of family income, family size or disabilities, have special needs,  
43 elderly persons and families living under conditions violative of  
44 minimum health and safety standards.

45 The provisions of this subsection shall not apply to any housing  
46 project situated in a qualified municipality that is constructed,

1 improved or rehabilitated on or after the [effective date of P.L.2002,  
2 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner  
3 determines that the municipality fulfills the definition of a qualified  
4 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).  
5 (cf: P.L.2002, c.43, s.65)

6  
7 16. (New section) Upon receipt of notification by the  
8 commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-  
9 4), the State Treasurer shall prepare an economic stimulus package  
10 designed to foster the revitalization of the qualified municipality and  
11 submit those recommendations, along with amounts necessary to  
12 achieve those revitalization objectives to the Governor, each member  
13 of the Senate and General Assembly, and each member of the State  
14 Economic Recovery Board for the qualified municipality established  
15 pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36), within 60  
16 days following the appointment of the last member. The economic  
17 stimulus package for the first municipality designated following the  
18 effective date of P.L.2002, c.43 (C.52:27BBB-1 et seq.) shall consist  
19 of those financing arrangements set forth in Article 5 of P.L.2002, c.43  
20 (C.52:27BBB-44 through 52).

21  
22 17. This act shall take effect immediately and shall be retroactive  
23 to June 30, 2002.

#### 24 25 STATEMENT

26  
27 This bill amends and clarifies the "Municipal Rehabilitation and  
28 Economic Recovery Act," P.L.2002, c.43, in order to ensure an  
29 accurate expression of the legislative intent in enacting that law. That  
30 act is now the subject of litigation contending that it is improper.  
31 Although the Legislature contends that a lower court determination  
32 regarding two sections of that enactment misconstrued the legislative  
33 intent of P.L.2002, c.43, it is the Legislature's opinion that given the  
34 urgent nature of the problems the act seeks to address, it is preferable  
35 to clarify some of the issues raised through legislative enactment rather  
36 than through time-consuming, costly litigation. At a time when public  
37 resources are scarce and the underlying conditions that the act  
38 confronts require coordinated, targeted and early solutions, it is  
39 important that public dollars and resources be spent on rehabilitation  
40 and recovery.

41 Ofttimes, the fiscal stress, economic impoverishment, crime, and  
42 financial mismanagement which characterizes certain municipalities in  
43 this State also afflict the school district which serves the same  
44 population, but not necessarily. Certainly there exists ample  
45 justification for a multipronged approach to urban revitalization which  
46 recognizes the importance of addressing problems which exist in the

1 school district simultaneously with those on the municipal side of  
2 government operation. Given the magnitude of the State's investment  
3 in these municipalities and the failure of previous legislative measures  
4 to resolve the problems of municipalities with these characteristics, the  
5 Legislature has developed a response that seeks to improve  
6 governance at both the municipal and school district level, at a time  
7 when substantial resources will be directed to the community.

8 As a result, the Legislature has imposed certain criteria limiting the  
9 act's application to municipalities that have been or may be subject to  
10 oversight by both a financial review board and the local finance board  
11 and which receive at least 55 percent of their budgets from State  
12 appropriations, now or in the future. These qualified municipalities  
13 are characterized by recurring fiscal distress, difficulties in managing  
14 public dollars and resources and chronic reliance on State revenues.

15 P.L.2002, c.43 applied to any school district contiguous with a  
16 qualified municipality. Instead, this bill provides for a parallel process  
17 of designating a school district. The pertinent provisions of the bill  
18 address only districts that are located in a qualified municipality and  
19 that are subject to Level II or Level III monitoring pursuant to  
20 N.J.S.A.18A:7A-14. Thus, only those schools that are not making  
21 sufficient progress to meet the thoroughness and efficiency standards  
22 due to problems in the district's operation are subject to these  
23 provisions. These requirements ensure that the State oversight of  
24 school districts, as contemplated by the act, will be appropriately  
25 applied only in districts that are subject to State monitoring.

26 At present, only the City of Camden and its school district meet the  
27 criteria specified in the act. It is not, however, the Legislature's intent  
28 to exclude other municipalities whose financial circumstances and  
29 governance challenges, as defined under the act, may require similar  
30 responses in the future.

31 Among the bill's provisions are language amendments clarifying and  
32 reaffirming that other similarly situated municipalities may meet the  
33 criteria of a qualified municipality and specifying when and how the  
34 act becomes effective in other municipalities. The bill also amends  
35 those provisions relating to the expansion and composition of boards  
36 of education in qualified municipalities (subject to Level II and III  
37 monitoring) so that they apply to the variety of board types found  
38 throughout the State through the addition of language providing a  
39 "composition" formula for boards composed of 3, 5 and 7 members.

40 Finally, the bill establishes a process for determining appropriations  
41 and allocations of monies to municipalities other than Camden that  
42 meet the definition of a qualified municipality subsequent to the  
43 passage of the act. This provision requires the State Treasurer to  
44 prepare an economic stimulus package that will be carefully tailored  
45 to meet the needs of any subsequently qualifying municipality and will  
46 foster its revitalization. The Treasurer's comprehensive plan is then

1 required to be submitted to the State Economic Recovery Board for  
2 that municipality within 60 days following the appointment of the last  
3 member. As a result, any subsequently qualifying municipality will  
4 find itself benefiting from an immediate economic stimulus plan  
5 developed by the State Treasurer.

6 The bill would also add two nonvoting ex officio legislative  
7 members to the State Economic Recovery Board to be appointed by  
8 the Governor, one of whom upon the recommendation of the Senate  
9 President and the other upon the recommendation of the Speaker of the  
10 General Assembly. These members are nonvoting, advisory members,  
11 appointed solely for the purpose of developing and facilitating  
12 legislation to assist the board in fulfilling its statutory mission, and may  
13 not exercise any of the executive powers delegated to the board.

14 In conclusion, these amendments detail a variety of appropriate  
15 steps necessary to ensure coordinated and effective governance and  
16 revitalization at the municipal level while ensuring, if necessary,  
17 effective governance at the school district level. These complementary  
18 goals protect the municipal tax base, assist the district in improving the  
19 quality of education and assist revitalization and redevelopment by  
20 improving the municipal infrastructure, including the educational  
21 opportunities offered to its citizens.

22

23

24

25

26 Amends "Municipal Rehabilitation and Economic Recovery Act."

**SENATE, No. 1878**

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**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

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INTRODUCED SEPTEMBER 26, 2002

**Sponsored by:**

**Senator WAYNE R. BRYANT**

**District 5 (Camden and Gloucester)**

**Assemblyman JOSEPH J. ROBERTS, JR.**

**District 5 (Camden and Gloucester)**

**Assemblywoman NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Amends "Municipal Rehabilitation and Economic Recovery Act."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/19/2002)**

S1878 BRYANT

2

1 AN ACT clarifying certain provisions of P.L.2002, c.43, amending and  
2 supplementing P.L.2002, c.43 (C.52:27BBB-1 et seq.).

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. (New section) The Legislature finds and declares that:

8 a. The court decision striking certain provisions of P.L.2002, c.43  
9 requires the Legislature to clarify its intent in approving that act;

10 b. The court's interpretation of P.L.2002, c.43 is contrary to the  
11 intent of the Legislature and as a result, amendatory legislation  
12 removing any question regarding the intent, scope and applicability of  
13 that act is appropriate;

14 c. It is also important to clarify and expand upon a legislative intent  
15 of focusing redevelopment efforts in qualified municipalities by  
16 ensuring that the expenditure of public dollars for development and  
17 redevelopment is coordinated with the expenditure of public dollars  
18 supporting schools and educational efforts in such municipalities; and

19 d. Given the magnitude of the State's investment in a qualified  
20 municipality, it is incumbent upon the State to take the appropriate  
21 steps necessary to ensure effective governance at the school district  
22 level in addition to effective governance at the municipal level. Not  
23 only will limited school district oversight ensure the coordinated  
24 expenditures of public funds, it will ensure that the proposed local tax  
25 levy to support the district's schools will not further burden the  
26 municipal tax base. Additionally, this oversight will assist the district  
27 in improving the quality of education provided to students in the  
28 municipality. Enhancing educational quality will, in turn, assist  
29 housing revitalization by attracting new families to the community and  
30 preventing flight of current residents. It will also serve to attract new  
31 businesses and potential employers because the community can offer  
32 better-prepared graduates to the workforce.

33  
34 2. Section 2 of P.L.2002, c.43 (C.52:27BBB-2) is amended to read  
35 as follows:

36 2. The Legislature finds and declares that:

37 a. There exists in certain municipalities a continuing state of fiscal  
38 distress which endures despite the imposition of a series of measures  
39 authorized pursuant to law;

40 b. Economically impoverished, those municipalities have a history  
41 of high crime rates, including arson, that has necessitated the  
42 maintenance of large police and fire departments, at enormous  
43 taxpayer cost in municipalities without a sound tax base;

**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 c. The past fifty years have witnessed the depopulation of those  
2 municipalities characterized by such problems;
- 3 d. Spending power on the part of residents of these municipalities  
4 is severely limited and local businesses thereby suffer from the lack of  
5 an indigenous client base so that rebuilding the fortunes of city  
6 residents in order to recreate a viable urban economy will require a  
7 considerable period of time;
- 8 e. Notwithstanding the prosperity which has been experienced  
9 elsewhere throughout New Jersey in recent years, the unemployment  
10 rate in these municipalities is substantially higher than that of most  
11 other municipalities;
- 12 f. While the rest of New Jersey has enjoyed increased land values,  
13 the ratable base in these municipalities has declined steadily during the  
14 1990's, marked by their low equalized value per capita which can be  
15 about one-half that of other cities;
- 16 g. Coupled with this economic deprivation, many of these  
17 municipalities are characterized by a lack of internal audit controls,  
18 accountability and oversight, evidenced by the fact that although real  
19 estate taxes comprise over two-thirds of locally generated revenues,  
20 many of these municipalities do not rigorously enforce collection and  
21 receive but a portion of their levy;
- 22 h. Although the State has experienced a period of tremendous  
23 prosperity and economic growth over the past few years, such  
24 municipalities continue to languish without any obvious signs of  
25 improvement;
- 26 i. These municipalities have experienced a substantial budget  
27 deficit for many years which has only been addressed through  
28 extraordinary payments of State aid;
- 29 j. While State aid dollars which have been directed toward such  
30 municipalities have served to address their structural deficits, they  
31 have not, and cannot, function as an economic impetus toward the  
32 rebuilding of those municipalities;
- 33 k. Because a significant proportion of the population of such  
34 municipalities lacks adequate health insurance coverage, causing many  
35 to seek basic care in municipal emergency rooms, municipal hospitals  
36 are heavily dependent upon state assistance commonly referred to as  
37 "charity care" for reimbursement. Such health services are crucial to  
38 the overall health of the infrastructure and social growth and stability  
39 of qualified municipalities. Moreover, the demand for such health  
40 services has necessitated planning for a major expansion of medical  
41 school programs within qualified municipalities;
- 42 l. Given the high crime rates in these municipalities, if economic  
43 recovery is to be successful, it is vital that municipal residents feel that  
44 their basic safety is assured; accordingly, the State will continue to  
45 commit to assist such municipalities in maintaining not less than that  
46 number of police officers employed by the municipality [on the

1 effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.)] at the time  
2 of the determination by the commissioner that the municipality fulfills  
3 the definition of a qualified municipality and in creating working  
4 relationships between State agencies, local law enforcement and the  
5 community to identify and develop strategies to improve the quality of  
6 life and the security of residents in qualified municipalities;

7 m. In order to ensure the long-term economic viability of such  
8 municipalities, it is critical that the Legislature encourage, to the  
9 extent possible, the production of market-rate housing within the  
10 municipality so as to expand the local tax base and provide a greater  
11 diversity of income levels among municipal inhabitants;

12 n. When faced with analogous situations, other states have  
13 employed extraordinary measures to provide leadership and oversight  
14 for struggling cities and the necessary tools to spur an economic  
15 revival within those cities; and

16 o. In light of the dire needs faced by such municipalities and the  
17 lack of progress in addressing those needs either governmentally or  
18 through private sector initiative, and given the successful interventions  
19 on the part of other states in analogous circumstances, it is incumbent  
20 upon the State to take exceptional measures, on an interim basis, to  
21 rectify certain governance issues faced by such municipalities and to  
22 strategically invest those sums of money necessary in order to assure  
23 the long-term financial viability of these municipalities.

24 (cf: P.L.2002, c.43, s.2)

25

26 3. Section 3 of P.L.2002, c.43 (C.52:27BBB-3) is amended to read  
27 as follows:

28 3. As used in this act:

29 "Authority" means the New Jersey Economic Development  
30 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

31 "Board" means the State Economic Recovery Board established  
32 pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36).

33 "Chief operating officer" means that person appointed pursuant to  
34 P.L.2002, c.43 (C.52:27BBB-1 et al.) responsible for reorganizing  
35 governmental operations of a qualified municipality in order to assure  
36 the delivery of essential municipal services and the professional  
37 administration of that municipal government.

38 "Commissioner" means the Commissioner of Community Affairs.

39 "Contiguous with" means within.

40 "Director" means the Director of the Division of Local Government  
41 Services in the Department of Community Affairs.

42 "Economic recovery term" means the period commencing with the  
43 expiration of the term of the chief operating officer and terminating  
44 five years thereafter.

45 "In consultation with" means with consideration of the input of, or  
46 the advice of, the mayor, governing body, chief operating officer or

1 director, as the case may be, without regard to the form or manner of  
2 the consultation.

3 "Local Finance Board" means the Local Finance Board of the  
4 Division of Local Government Services in the Department of  
5 Community Affairs.

6 "Mayor" means the mayor or chief executive officer of the  
7 municipality, as appropriate to the form of government.

8 "Project" means: (1) (a) acquisition, construction, reconstruction,  
9 repair, alteration, improvement and extension of any building,  
10 structure, facility, including water transmission facilities or other  
11 improvement, whether or not in existence or under construction, (b)  
12 purchase and installation of equipment and machinery, (c) acquisition  
13 and improvement of real estate and the extension or provision of  
14 utilities, access roads and other appurtenant facilities; and (2) (a) the  
15 acquisition, financing, or refinancing of inventory, raw materials,  
16 supplies, work in process, or stock in trade, or (b) the financing,  
17 refinancing or consolidation of secured or unsecured debt, borrowings,  
18 or obligations, or (c) the provision of financing for any other expense  
19 incurred in the ordinary course of business; all of which are to be used  
20 or occupied by any person in any enterprise promoting employment,  
21 either for the manufacturing, processing or assembly of materials or  
22 products, or for research or office purposes, including, but not limited  
23 to, medical and other professional facilities, or for industrial,  
24 recreational, hotel or motel facilities, public utility and warehousing,  
25 or for commercial and service purposes, including, but not limited to,  
26 retail outlets, retail shopping centers, restaurant and retail food  
27 outlets, and any and all other employment promoting enterprises,  
28 including, but not limited to, motion picture and television studios and  
29 facilities and commercial fishing facilities, commercial facilities for  
30 recreational fishermen, fishing vessels, aquaculture facilities and  
31 marketing facilities for fish and fish products and (d) acquisition of an  
32 equity interest in, including capital stock of, any corporation; or any  
33 combination of the above, which the authority determines will: (i) tend  
34 to maintain or provide gainful employment opportunities within and  
35 for the people of the State, or (ii) aid, assist and encourage the  
36 economic development or redevelopment of any political subdivision  
37 of the State, or (iii) maintain or increase the tax base of the State or of  
38 any political subdivision of the State, or (iv) maintain or diversify and  
39 expand employment promoting enterprises within the State; and (3)  
40 the cost of acquisition, construction, reconstruction, repair, alteration,  
41 improvement and extension of an energy saving improvement or  
42 pollution control project which the authority determines will tend to  
43 reduce the consumption in a building devoted to industrial or  
44 commercial purposes, or in an office building, of nonrenewable  
45 sources of energy or to reduce, abate or prevent environmental  
46 pollution within the State; and (4) the acquisition, construction,

1 reconstruction, repair, alteration, improvement, extension,  
2 development, financing or refinancing of infrastructure and  
3 transportation facilities or improvements related to economic  
4 development and of cultural, recreational and tourism facilities or  
5 improvements related to economic development and of capital facilities  
6 for primary and secondary schools and of mixed use projects  
7 consisting of housing and commercial development; and (5) the  
8 establishment, acquisition, construction, rehabilitation, improvement,  
9 and ownership of port facilities as defined in section 3 of P.L.1997,  
10 c.150 (C.34:1B-146). Project may also include: reimbursement to any  
11 person for costs in connection with any project, or the refinancing of  
12 any project or portion thereof, if such actions are determined by the  
13 authority to be necessary and in the public interest to maintain  
14 employment and the tax base of any political subdivision and likely to  
15 facilitate improvements or the completion of the project; and  
16 developing property and any construction, reconstruction,  
17 improvement, alteration, equipment or maintenance or repair, or  
18 planning and designing in connection therewith. For the purpose of  
19 carrying out mixed use projects consisting of both housing and  
20 commercial development, the authority may enter into agreements with  
21 the New Jersey Housing and Mortgage Finance Agency for loan  
22 guarantees for any such project in accordance with the provisions of  
23 P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall  
24 allocate to the New Jersey Housing and Mortgage Finance Agency,  
25 under such agreements, funding available pursuant to subsection a. of  
26 section 4 of P.L.1992, c.16 (C.34:1B-7.13). "Project" shall not  
27 include a school facilities project.

28 "Qualified municipality" means a municipality: (1) that has been  
29 subject to the supervision of a financial review board pursuant to the  
30 "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et  
31 seq.) for at least one year; (2) that has been subject to the supervision  
32 of the Local Finance Board pursuant to the "Local Government  
33 Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) for  
34 at least one year; and (3) which, according to its most recently  
35 adopted municipal budget [on the effective date of P.L.2002, c.43  
36 (C.52:27BBB-1 et al.)], is dependent upon State aid and other State  
37 revenues for not less than 55 percent of its total budget.

38 "Regional Impact Council" or "council" means that body established  
39 pursuant to section 39 of P.L.2002, c.43 (C.52:27BBB-39).

40 "Rehabilitation term" means that period during which the qualified  
41 municipality is under the direction of the chief operating officer  
42 appointed pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7).

43 "Special arbitrator" means that judge designated by the Chief  
44 Justice pursuant to section 5 of P.L.2002, c.43 (C.52:27BBB-5).

45 "State supervision" means supervision pursuant to Article 4 of the  
46 "Local Government Supervision Act (1947)," P.L.1947, c.151

1 (C.52:27BB-54 et seq.).

2 "Treasurer" or "State treasurer" means the Treasurer of the State  
3 of New Jersey.

4 "Under rehabilitation and economic recovery" means that period  
5 which coincides with the rehabilitation term and the economic  
6 recovery term.

7 (cf: P.L.2002, c.43, s.3)

8

9 4. Section 4 of P.L.2002, c.43 (C.52:27BBB-4) is amended to read  
10 as follows:

11 4. Within 30 days of the effective date of P.L.2002, c.43  
12 (C.52:27BBB-1 et al.) and thereafter within 30 days of the deadline  
13 for the adoption of municipal budgets pursuant to the "Local Budget  
14 Law," N.J.S.40A:4-1 for each calendar or State fiscal year, as  
15 appropriate to the budget adoption schedule, the commissioner shall  
16 make a determination regarding which municipalities fulfill the  
17 definition of a qualified municipality pursuant to P.L. , c. (C.   
18 ) (pending before the Legislature as this bill) and shall notify the  
19 Governor, the State Treasurer, the mayor and each member of the  
20 governing body of each qualified municipality that the municipality is  
21 subject to the provisions of the "Municipal Rehabilitation and  
22 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). The  
23 date of the notification shall be considered the date a municipality is  
24 designated as a qualified municipality. In addition, the commissioner  
25 shall notify:

26 a. the county executive, county manager, the freeholder director  
27 or chairperson, as appropriate to the form of government, and each  
28 member of the board of chosen freeholders of each county in which is  
29 situated a qualified municipality;

30 b. the Chief Justice of the New Jersey Supreme Court; [and]

31 c. each member of the Senate and General Assembly; and

32 d. the Commissioner of Education. If the commissioner determines  
33 that any school district which is contiguous with the qualified  
34 municipality is subject to level II or level III monitoring pursuant to  
35 section 14 of P.L.1975, c.212 (C.18A:7A-14), the commissioner shall  
36 forthwith notify the Governor and the board of education of the school  
37 district that the school district is subject to the provisions of sections  
38 67 and 68 of P.L.2002, c.43 (C.52:27BBB-63 and 64).

39 Any designation of a qualified municipality made pursuant to  
40 P.L.2002, c.43 (C.52:27BBB-1 et seq.) prior to the enactment of P.L.  
41 , c. (C. ) (pending before the Legislature as this bill) is  
42 continued.

43 (cf: P.L.2002, c.43, s.4)

44

45 5. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to read  
46 as follows:

1       6. a. Upon the appointment of a chief operating officer pursuant  
2 to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified  
3 municipality shall be under rehabilitation and economic recovery. This  
4 period shall begin with the assumption of job responsibilities by the  
5 chief operating officer pursuant to this section and terminate five years  
6 following the end of the term of the chief operating officer. The  
7 period corresponding with the term of the chief operating officer shall  
8 be referred to hereinafter as the rehabilitation term. The period  
9 commencing with the expiration of the term of the chief operating  
10 officer and terminating five years thereafter shall be referred to  
11 hereinafter as the economic recovery term.

12       b. During the economic recovery term, the mayor shall exercise  
13 those powers delegated to the mayor pursuant to the form of  
14 government, the charter and the administrative code of the  
15 municipality, and those powers delegated to the mayor under general  
16 law. In addition, during the economic recovery term, the mayor shall  
17 retain the power to veto the minutes of any independent board or  
18 authority, including, but not limited to, the housing authority, parking  
19 authority, redevelopment authority, planning board and board of  
20 adjustment.

21       While the municipality is under rehabilitation and economic  
22 recovery, the mayor shall retain the power to make those appointments  
23 to municipal authorities, boards or commissions, as the case may be,  
24 which is otherwise allocated to the mayor pursuant to law.

25       The mayor may retain staff for the purpose of advising the mayor  
26 and aiding in the performance of constituent services.

27       c. Upon the assumption of job responsibilities by the chief  
28 operating officer, the financial review board created pursuant to  
29 section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the  
30 finances of the municipality shall cease to function and the municipality  
31 shall cease to be under supervision pursuant to Article 4 of P.L.1947,  
32 c.151 (C.52:27BB-54 et seq.).

33       All outstanding debts or obligations incurred by [the] a qualified  
34 municipality or the New Jersey Housing and Mortgage Finance  
35 Agency established pursuant to section 4 of the "New Jersey Housing  
36 and Mortgage Finance Agency Law of 1983," P.L.1983, c.530  
37 (C.55:14K-4) and secured by a right of first refusal on municipally-  
38 owned property as of [60] 10 days following [the effective date of  
39 P.L.2002, c.43 (C.52:27BBB-1 et al.)] a determination by the  
40 commissioner that the municipality fulfills the definition of a qualified  
41 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4),  
42 with any subsidiary of that agency with jurisdiction in a qualified  
43 municipality, other than those debts or obligations represented by  
44 bonds or other negotiable instruments, are forgiven.

45       Notwithstanding the termination of the financial review board and  
46 supervision, all memorandums of understanding entered into by the

1 municipality as a condition of receiving assistance under P.L.1987,  
2 c.75 (C.52:27D-118.24 et seq.) that require the municipality to  
3 implement any government, administrative, operational efficiency or  
4 oversight measures necessary for the fiscal recovery of the  
5 municipality as recommended by the director and approved by the  
6 Local Finance Board shall continue to have full force and effect.  
7 (cf: P.L.2002, c.43, s.6)

8  
9 6. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to read  
10 as follows:

11 7. a. [Within 30 days following the enactment of P.L.2002, c.43  
12 (C.52:27BBB-1 et al.)] Upon receiving notification by the  
13 Commissioner of Community Affairs pursuant to section 4 of  
14 P.L.2002, c.43 (C.52:27BBB-4), the Governor shall appoint the chief  
15 operating officer in consultation with the mayor and the governing  
16 body. The chief operating officer shall serve at the pleasure of the  
17 Governor. The chief operating officer shall be qualified by training  
18 and experience for the position and shall have at least 10 years of  
19 experience in the management or supervision of government activities,  
20 three years of which may be substituted by an advanced degree in  
21 business, law, or public administration.

22 b. Pending the appointment of a chief operating officer or, in the  
23 event of the death, resignation, removal or inability of the chief  
24 operating officer to discharge the duties of that office, the functions,  
25 powers and duties of the chief operating officer shall devolve upon the  
26 director, for the time being, until a chief operating officer is appointed  
27 or is able to discharge the duties of that office. In the event that the  
28 chief operating officer does not serve out the chief operating officer's  
29 term of office for any reason, a successor shall be chosen by the  
30 Governor.

31 c. The term of the chief operating officer shall terminate five years  
32 following the assumption of duties on the part of the chief operating  
33 officer. The chief operating officer may be hired as a State employee  
34 in the unclassified service of Title 11A, Civil Service, of the New  
35 Jersey Statutes or may be hired under contract, as provided hereunder.  
36 Notwithstanding any other provision of law, no person so appointed  
37 shall acquire tenure.

38 If the chief operating officer is hired under contract, the person  
39 hired shall meet the qualifications set forth herein, and it shall be clear  
40 from the contract that the position is full-time and that the job site  
41 shall be at the principal offices of the municipality. If, for any reason,  
42 a person engaged under contract is unable to fulfill the job  
43 responsibilities of chief operating officer, the selection process shall be  
44 recommenced in accordance with the provisions of this section.

45 If the chief operating officer is hired under contract, the contract

1 shall be available for public inspection in the office of the municipal  
2 clerk.

3 d. Subject to the approval of the commissioner, the salary,  
4 benefits and costs of the chief operating officer shall be fixed by the  
5 board and adjusted from time to time as the board deems appropriate.  
6 The salary level and benefits shall be comparable to that of the director  
7 of any public authority or agency with jurisdiction in the qualified  
8 municipality. The salary, benefits, and costs of the chief operating  
9 officer shall be an expense of the State.

10 (cf: P.L.2002, c.43, s.7)

11

12 7. Section 36 of P.L.2002, c.43 (C.52:27BBB-36) is amended to  
13 read as follows:

14 36. a. In order to facilitate the rehabilitation and economic recovery  
15 of each qualified municipality, there is created a subsidiary corporation  
16 of the New Jersey Economic Development Authority, which shall be  
17 known as the State Economic Recovery Board for (insert name of  
18 qualified municipality). The board shall operate for the period during  
19 which the municipality is under rehabilitation and economic recovery  
20 and for a period of two years thereafter. Any outstanding debts or  
21 obligations which remain at the termination of board operation shall be  
22 assumed by the authority and any accounts payable to the board shall  
23 be due and payable to the authority.

24 b. The board shall consist of 15 voting members, as follows: the  
25 mayor of the qualified municipality; a representative of the municipal  
26 governing body selected by the governing body; the chief operating  
27 officer; the State Treasurer; the Commissioner of Community Affairs;  
28 the chairperson of the authority; a representative of the regional  
29 impact council selected by the council; the director of the board of  
30 chosen freeholders of the county in which the qualified municipality is  
31 situated, as provided hereunder, all of whom shall serve ex officio and  
32 may select a designee to serve in their stead; one public member  
33 chosen by the Governor, based on the recommendation of the Senate  
34 President and one public member chosen by the Governor, based on  
35 the recommendation of the Assembly Speaker; and five public  
36 members to be appointed by the Governor, to include one  
37 representative of organized labor and one representing the business  
38 community. Of the public members appointed by the Governor, at  
39 least three shall be municipal residents. The board shall include two  
40 nonvoting ex officio legislative members to be chosen by the  
41 Governor, one of whom shall be selected based on the  
42 recommendation of the Senate President and the other upon the  
43 recommendation of the Speaker of the General Assembly. These  
44 members shall be advisory members, appointed solely for the purpose  
45 of developing and facilitating legislation to assist the board in fulfilling  
46 its statutory mission, and may not exercise any of the executive



1 powers delegated to the board. In addition, the Senior Community  
2 Builder in the State office of the federal Department of Housing and  
3 Urban Development shall serve as an ex officio, non-voting member  
4 of the board.

5 A majority of the entire authorized voting membership of the board  
6 shall constitute a quorum at any meeting thereof.

7 c. Each public member shall serve for a term of five years.  
8 Vacancies in the public membership of the board shall be filled in the  
9 same manner as the original appointments are made and a member may  
10 be eligible for reappointment. Vacancies occurring other than by  
11 expiration of a term shall be filled for the unexpired term. Each ex  
12 officio member shall serve for the period during which the municipality  
13 is under rehabilitation and economic recovery and for a period of two  
14 years thereafter.

15 The Governor shall designate the chairperson of the board.

16 d. The board shall be appointed as expeditiously as possible upon  
17 the [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)]  
18 determination by the commissioner that the municipality fulfills the  
19 definition of a qualified municipality pursuant to section 4 of P.L.2002,  
20 c.43 (C.52:27BBB-4) and shall convene not later than 30 days  
21 following [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)] that  
22 determination for its organizational meeting. Thereafter, the board  
23 shall meet regularly and on not less than a quarterly basis. At its first  
24 organizational meeting, the board shall appoint one of the public  
25 members to serve as its designee on the New Jersey Economic  
26 Development Authority pursuant to section 4 of P.L.1974, C.80 as  
27 amended by section 69 of P.L.2002, c.43 (C.34:1B-4).

28 e. The voting authority of the director of the county board of  
29 chosen freeholders shall not become effective until the filing with the  
30 Secretary of State of an agreement entered into by the chief operating  
31 officer, acting on behalf of the municipality, and the county, detailing  
32 the financial commitment of the county to the redevelopment of the  
33 infrastructure of the municipality which shall include improvements or  
34 other economic benefits totalling not less than \$20 million and a  
35 proposed construction schedule for the completion thereof.

36 (cf: P.L.2002, c.43, s.36)

37  
38 8. Section 39 of P.L.2002, c.43 (C.52:27BBB-39) is amended to  
39 read as follows:

40 39. a. There is established for each qualified municipality a regional  
41 impact council to serve for that period during which the municipality  
42 is under rehabilitation and economic recovery. The council shall  
43 consist of: the mayor of the qualified municipality or his or her  
44 designee; the mayor of any municipality in the county in which the  
45 qualified municipality is situated which on or before the [effective date  
46 of P.L.2002, c.43 (C.52:27BBB-1 et al.)] determination by the

1 commissioner that the municipality fulfills the definition of a qualified  
2 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
3 has participated in a regional collaborative established to further the  
4 strategic revitalization of the qualified municipality or the mayor's  
5 designee; the director of the board of chosen freeholders of the county  
6 in which the qualified municipality is situated or his or her designee;  
7 the director of the Office of State Planning or his or her designee; one  
8 representative of the New Jersey Regional Coalition, to be appointed  
9 as provided hereinafter; and four public members, two of whom shall  
10 be appointed by the Governor, one of whom shall be appointed by the  
11 Senate President and one of whom shall be appointed by the Speaker  
12 of the General Assembly. In the event that a regional collaborative has  
13 not been established in the county in which the qualified municipality  
14 is situated, the regional impact council shall include the mayor of each  
15 municipality that borders on the qualified municipality. The four  
16 public members shall include at least one member of the faith-based  
17 community within the region; one member of the business community;  
18 one member of the higher education community; and one member of  
19 the labor community within the region.

20 b. Within 30 days of [the effective date of P.L.2002, c.43  
21 (C.52:27BBB-1 et al.)] a determination by the commissioner that a  
22 municipality fulfills the definition of a qualified municipality pursuant  
23 to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the New Jersey  
24 Regional Coalition shall submit to the Governor three nominees for  
25 consideration, from which the Governor may choose. If the  
26 organization does not submit three nominees for consideration at any  
27 time required, the Governor may appoint a member of the Governor's  
28 choice.

29 c. No member of the council shall receive a salary for service on  
30 the council but shall be reimbursed for reasonable and necessary  
31 expenses associated with serving on the council.

32 d. A majority of the members of the council shall choose one of  
33 the members to serve as the chair. Each member of the council shall  
34 serve for a two-year term and, upon expiration of that term, may be  
35 reappointed. Vacancies among the membership shall be filled in the  
36 same manner in which the original appointment was made.

37 e. The council shall select an appropriate location or locations in  
38 which to meet. The council may adopt its own bylaws and procedures  
39 that are not inconsistent with P.L.2002, c.43 (C.52:27BBB-1 et al.).

40 f. The council shall be eligible for and may employ a consultant  
41 and such staff as it deems necessary, to the extent that funds are made  
42 available pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or other  
43 sources. The council may call upon the commissioner for such  
44 assistance as it deems necessary.

1 g. The council may hold public hearings at the call of the chair  
2 and pursuant to the "Open Public Meetings Act," P.L.1975, c.231  
3 (C.10:4-6 et seq.).  
4 (cf: P.L.2002, c.43, s.39)

5  
6 9. Section 45 of P.L.2002, c.43 (C.52:27BBB-44) is amended to  
7 read as follows:

8 45. a. The board shall prepare and submit a project list, as provided  
9 hereunder. The list shall be consistent with the strategic revitalization  
10 plan and capital improvement and infrastructure plans for the qualified  
11 municipality to the extent practicable and shall include a series of  
12 projects which are prioritized according to their importance in  
13 revitalizing the qualified municipality.

14 Following [the enactment of P.L.2002, c.43 (C.52:27BBB-1 et  
15 al.)] a determination by the commissioner that a municipality fulfills  
16 the definition of a qualified municipality pursuant to section 4 of  
17 P.L.2002, c.43 (C.52:27BBB-4) and the preparation of the plans  
18 mentioned above, the capital and infrastructure needs shall be assessed  
19 and projects shall be anticipated over a three-year period. The bond  
20 moneys authorized to be issued pursuant to section 47 of P.L.2002,  
21 c.43 (C.52:27BBB-46) shall be expended over a three year period.

22 The board shall adopt each project list by a majority of those  
23 members present. In the event that the board selects to rescind a  
24 project from the list, such a vote shall be by a two-thirds vote of the  
25 fully authorized membership thereof.

26 Each project list shall be submitted to the Commission on Capital  
27 Budgeting and Planning, the Chairperson of the Senate Appropriations  
28 Committee and the Chairperson of the Assembly Appropriations  
29 Committee, or their successors, and the Legislative Budget and  
30 Finance Officer, on or before March 1 of each year.

31 b. The President of the Senate and the Speaker of the General  
32 Assembly shall cause the date of submission of the project list to be  
33 entered upon the Senate Journal and the Minutes of the General  
34 Assembly.

35 c. On or before March 1 of each year, the board shall submit a  
36 report of general project categories and proposed projects thereunder  
37 to be financed in the ensuing fiscal year, including therewith a  
38 description of the projects, the county or counties within which they  
39 are to be located, a distinction between State, local and private  
40 projects, and the amount estimated to be expended on each project.  
41 This report shall be known as the "Annual Qualified Municipality  
42 Capital and Economic Recovery Program" for the upcoming fiscal  
43 year. The program shall be consistent with, and reflective of, the goals  
44 and priorities of the Strategic Revitalization Plan, capital improvement  
45 and infrastructure plan, and the program shall include an explanation  
46 which demonstrates how it is consistent with, and reflective of, the

1 goals and priorities.

2 d. On or before August 1 of each year, the board shall also submit  
3 a "Qualified Municipality Capital and Economic Recovery Financial  
4 Plan" designed to implement the financing of the proposed projects.  
5 The financial plan shall contain an enumeration of the bonds, notes or  
6 other obligations of the authority which the authority intends to issue,  
7 including the amounts thereof and the conditions therefor.

8 In addition, the plan shall contain proposed amounts to be  
9 appropriated and expended, as well as amounts for which the authority  
10 anticipates to obligate during the ensuing fiscal year for any future  
11 expenditures.

12 (cf: P.L.2002, c.43, s.45)

13

14 10. Section 54 of P.L.2002, c.43 (C.52:27BBB-53) is amended to  
15 read as follows:

16 54. As used in this section and section 55 of P.L.2002, c.43  
17 (C.52:27BBB-54):

18 a. "Business facility" means any factory, mill, plant, refinery,  
19 warehouse, building, complex of buildings or structural components  
20 of buildings, and all machinery, equipment and personal property  
21 located within a qualified municipality, used in connection with the  
22 operation of the business of a corporation that is subject to the tax  
23 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and  
24 all facility preparation and start-up costs of the taxpayer for the  
25 business facility which it capitalizes for federal income tax purposes.

26 b. "Business relocation or business expansion property" means  
27 improvements to real property and tangible personal property, but only  
28 if that improvement or personal property is constructed or purchased  
29 and placed in service or use by the taxpayer, for use as a component  
30 part of a new or expanded business facility located in a qualified  
31 municipality.

32 (1) Business relocation or business expansion property shall  
33 include only:

34 (a) improvements to real property placed in service or use as a  
35 business facility by the taxpayer on or after the [operative date of  
36 P.L.2002, c.43 (C.52:27BBB-1 et al.) by the taxpayer] notification of  
37 the Governor by the commissioner pursuant to section 4 of P.L.2002,  
38 c.43 (C.52:27BBB-4) that the municipality in which the property is  
39 situated fulfills the definition of a qualified municipality;

40 (b) tangible personal property placed in service or use by the  
41 taxpayer on or after the [operative date of P.L.2002, c.43  
42 (C.52:27BBB-1 et al.)] notification of the Governor by the  
43 commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
44 that the municipality in which the property is situated fulfills the  
45 definition of a qualified municipality, with respect to which  
46 depreciation, or amortization in lieu of depreciation, is allowable in

1 determining the corporation business tax liability of the taxpayer under  
2 P.L.1945, c.162, and which has a remaining recovery period of three  
3 or more years at the time the property is placed in service or use in a  
4 qualified municipality; or

5 (c) tangible personal property owned and used by the taxpayer at  
6 a business location outside a qualified municipality which is moved  
7 into a qualified municipality on or after the [effective date of  
8 P.L.2002, c.43 (C.52:27BBB-1 et al.)] notification of the Governor  
9 by the commissioner pursuant to section 4 of P.L.2002, c.43  
10 (C.52:27BBB-4) that the municipality in which the property is situated  
11 fulfills the definition of a qualified municipality, for use as a  
12 component part of a new or expanded business facility located in the  
13 qualified municipality; provided that the property is depreciable or  
14 amortizable personal property for income tax purposes, and has a  
15 remaining recovery period of three or more years at the time the  
16 property is placed in service or use in a qualified municipality.

17 (2) Property purchased for business relocation or expansion shall  
18 not include:

19 (a) repair costs, including materials used in the repair, unless for  
20 federal income tax purposes, the cost of the repair must be capitalized  
21 and not expensed;

22 (b) airplanes;

23 (c) property which is primarily used outside a qualified  
24 municipality with that use being determined based upon the amount of  
25 time the property is actually used both within and without the qualified  
26 municipality;

27 (d) property which is acquired incident to the purchase of the stock  
28 or assets of the seller.

29 (3) Property shall be deemed to have been purchased prior to a  
30 specified date only if:

31 (a) the physical construction, reconstruction or erection of the  
32 property was begun prior to the specified date, or such property was  
33 constructed, reconstructed, erected or acquired pursuant to a written  
34 contract as existing and binding on the purchase prior to the specified  
35 date; or

36 (b) the machinery or equipment was owned by the taxpayer prior  
37 to the specified date, or was acquired by the taxpayer pursuant to a  
38 binding purchase contract which was in effect prior to the specified  
39 date.

40 c. "Business relocation or expansion" means capital investment in  
41 a new or expanded business facility in a qualified municipality.

42 d. "Controlled group" means one or more chains of corporations  
43 connected through stock ownership with a common parent corporation  
44 if stock possessing at least 50% of the voting power of all classes of  
45 stock of each of the corporations is owned directly or indirectly by one  
46 or more of the corporations; and the common parent owns directly

1 stock possessing at least 50% of the voting power of all classes of  
2 stock of at least one of the other corporations.

3 e. "Director" means the Director of the Division of Taxation in  
4 the Department of the Treasury.

5 f. "Expanded business facility" means any business facility, other  
6 than a new business facility, resulting from acquisition, construction,  
7 reconstruction, installation or erection of improvements or additions  
8 to existing property if such improvements or additions are purchased  
9 on or after the effective date of rehabilitation and economic recovery.

10 g. "Incentive payment" means: the amount of tax owed by a  
11 taxpayer for a privilege period, as computed pursuant to section 5 of  
12 P.L.1945, c.162 (C.54:10A-5), multiplied by a fraction, the numerator  
13 of which is the average value of the taxpayer's business relocation or  
14 business expansion property within a qualified municipality during the  
15 period covered by its report, and the denominator of which is the  
16 average value of all the taxpayer's real and tangible personal property  
17 in New Jersey during such period which result is multiplied by 96  
18 percent; provided, however, that for the purpose of determining  
19 average value, the provisions with respect to depreciation as set forth  
20 in subparagraph (F) of paragraph (2) of subsection (k) of section 4 of  
21 P.L.1945, c.162 (C.54:10A-4) shall be taken into account for arriving  
22 at such value; and provided further that incentive payments shall be  
23 made for a period not to exceed 10 years, commencing on the date of  
24 a taxpayer's first acquisition of business relocation or business  
25 expansion property in the qualified municipality following the  
26 [operative date of P.L.2002, c.43 (C.52:27BBB-1 et al.)] notification  
27 of the Governor by the commissioner pursuant to section 4 of  
28 P.L.2002, c.43 (C.52:27BBB-4) that the municipality in which the  
29 property is situated fulfills the definition of a qualified municipality.

30 h. "New business facility" means a business facility which:

31 (1) is employed by a taxpayer in the conduct of a business which  
32 is or will be taxable under P.L.1945, c.162 (C.54:10A-1 et seq.). A  
33 business facility shall not be considered a new business facility in the  
34 hands of a taxpayer if the taxpayer's only activity with respect to the  
35 facility is to lease it to another person;

36 (2) is purchased by a taxpayer and is placed in service or use on or  
37 after the effective date of rehabilitation and economic recovery;

38 (3) was not purchased by a taxpayer from a related person; and

39 (4) was not in service or use during the 90-day period immediately  
40 prior to transfer of the title to the facility.

41 i. "Partnership" means a syndicate, group, pool, joint venture or  
42 other unincorporated organization through or by means of which any  
43 business, financial operation or venture is carried on, and which is not  
44 a trust or estate, a corporation or a sole proprietorship. The term  
45 "partner" includes a member in such a syndicate, group, pool, joint  
46 venture or organization.

1 j. "Purchase" means, with respect to the determination of whether  
2 business relocation or business expansion property was purchased, any  
3 acquisition of property, including an acquisition pursuant to a lease,  
4 but only if:

5 (1) the property is not acquired from a person whose relationship  
6 to the person acquiring it would result in the disallowance of  
7 deductions under section 267 or subsection (b) of section 707 of the  
8 federal Internal Revenue Code of 1986, 26 U.S.C.s.267 or s.707;

9 (2) the property is not acquired by one member of a controlled  
10 group from another member of the same controlled group; and

11 (3) the basis of the property for federal income tax purposes, in the  
12 hands of the person acquiring it, is not determined:

13 (a) in whole or in part by reference to the federal adjusted basis of  
14 such property in the hands of the person from whom it was acquired;  
15 or

16 (b) under subsection (e) of section 1014 of the federal Internal  
17 Revenue Code of 1986, 26 U.S.C. s.1014.

18 k. "Related person" means:

19 (1) a corporation, partnership, association or trust controlled by  
20 the taxpayer;

21 (2) an individual, corporation, partnership, association or trust that  
22 is in control of the taxpayer;

23 (3) a corporation, partnership, association or trust controlled by an  
24 individual, corporation, partnership, association or trust that is in  
25 control of the taxpayer; or

26 (4) a member of the same controlled group as the taxpayer.

27 (cf: P.L.2002, c.43, s.54)

28  
29 11. Section 60 of P.L.2002, c.43 (C.52:27BBB-58) is amended to  
30 read as follows:

31 60. In order to fulfill its obligation to establish an affirmative action  
32 program for the hiring of minority and female workers employed in the  
33 performance of construction contracts undertaken in connection with  
34 a project undertaken or financed by the authority pursuant to  
35 P.L.2002, c.43 (C.52:27BBB-1 et al.) in a qualified municipality, the  
36 authority shall comply with all requirements for pre-apprenticeship and  
37 apprenticeship applicable to the authority in that qualified municipality  
38 on or after the [effective date of P.L.2002, c.43 (C.52:27BBB-1 et  
39 al.)] determination by the commissioner that the municipality fulfills  
40 the definition of a qualified municipality pursuant to section 4 of  
41 P.L.2002, c.43 (C.52:27BBB-4).

42 (cf: P.L.2002, c.43, s.60)

43  
44 12. Section 66 of P.L.2002, c.43 (C.52:27BBB-62) is amended to  
45 read as follows:

46 66. Upon the [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)]

1 date upon which the commissioner determines that the municipality  
2 fulfills the definition of a qualified municipality pursuant to section 4  
3 of P.L.2002, c.43 (C.52:27BBB-4) and during the rehabilitation term,  
4 there shall be a moratorium on regional contribution agreements  
5 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) in any qualified  
6 municipality.

7 (cf: P.L.2002, c.43, s.66)

8

9 13. Section 67 of P.L.2002, c.43 (C.52:27BBB-63) is amended to  
10 read as follows:

11 67. a. [Notwithstanding the provisions of any law to the contrary,  
12 in the case of a Type II school district which is contiguous with a  
13 qualified municipality and which has a nine-member board of  
14 education, the Governor shall appoint three additional members to the  
15 board of education upon the enactment of P.L.2002, c.43  
16 (C.52:27BBB-1 et al.). The appointed members shall be voting  
17 members of the board who shall serve at the pleasure of the Governor  
18 for three-year terms and they shall be eligible for reappointment. Two  
19 members shall be residents of the qualified municipality and one  
20 member shall be employed in the qualified municipality.

21 b. At the first organizational meeting conducted pursuant to  
22 N.J.S.18A:10-3 following the establishment of the qualified  
23 municipality, the voting membership of the board of education shall be  
24 comprised of the three members appointed by the Governor pursuant  
25 to subsection a. of this section and any member of the board of  
26 education as comprised prior to the establishment of a qualified  
27 municipality with an unexpired term.

28 c. At the second organizational meeting conducted pursuant to  
29 N.J.S.18A:10-3 following the establishment of the qualified  
30 municipality, the voting membership of the board of education shall be  
31 comprised of the three members appointed by the Governor pursuant  
32 to subsection a. of this section, three members appointed by the mayor  
33 of the qualified municipality with the advice and consent of the city  
34 council and any member of the board of education as comprised prior  
35 to the establishment of a qualified municipality with an unexpired term.  
36 Members appointed by the mayor, with the advice and consent of the  
37 city council shall serve three-year terms and shall be eligible for  
38 reappointment.

39 d. There shall be no school election of school board members  
40 conducted in the first two years following the establishment of a  
41 qualified municipality. In the third year following the establishment of  
42 the qualified municipality, a school election of school board members  
43 shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.)  
44 and three members of the board of education shall be elected by the  
45 voters to serve three-year terms.

46 e. In the fourth year and each subsequent year thereafter, up until



1 the tenth year following the establishment of the qualified municipality,  
2 members shall be appointed or elected as provided hereinabove upon  
3 the expiration of the members' terms. In the tenth year following the  
4 establishment of the qualified municipality, a school election of school  
5 board members shall be conducted pursuant to P.L.1995, c.278  
6 (C.19:60-1 et seq.) and three members of the board of education shall  
7 be elected by the voters to fill the vacancies of the Governor's  
8 appointees whose terms expire. The elected members shall serve  
9 three-year terms. In the eleventh year following the establishment of  
10 the qualified municipality, a school election of school board members  
11 shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.)  
12 and three members of the board of education shall be elected by the  
13 voters to fill the vacancies of the mayor's appointees whose terms  
14 expire. The elected members shall serve three-year terms. In the  
15 twelfth year following the establishment of the qualified municipality  
16 and each year thereafter successors to the members whose terms  
17 expire shall be elected for three-year terms as provided by law.

18 f.] The membership of the board of education serving in a school  
19 district which is contiguous with a qualified municipality and which is  
20 subject to level II monitoring or level III monitoring pursuant to  
21 section 14 of P.L.1975, c.212 (C.18A:7A-14) shall be increased as set  
22 forth in this section in order to ensure the State's and the  
23 municipality's ability to participate in the activities of the board.  
24 Board members appointed by the Governor or mayor shall be voting  
25 members of the board and shall have all the rights, powers and  
26 privileges of a member of the board. Members appointed by the  
27 Governor or mayor shall serve at the pleasure of the Governor or  
28 mayor, as appropriate. Any vacancy in the membership appointed by  
29 the Governor or mayor shall be filled in the same manner as the  
30 original appointment, but for the unexpired term only. The first  
31 members appointed by the Governor shall serve for a term  
32 commencing upon appointment and qualification and ending three  
33 years from the date that the number of members of the board returns  
34 to the number on the board prior to the designation of the qualified  
35 municipality. Members appointed thereafter shall serve for a term of  
36 three years as provided in this section.

37 In order to ensure substantial local representation on any such  
38 board, in no case shall the number of the positions appointed by the  
39 mayor and elected by the voters, combined, constitute less than a  
40 majority of the total positions on the board. This section shall not  
41 apply to State-operated school districts established pursuant to  
42 P.L.1987, c.399 (C. 18A:7A-34 et seq.).

43 b. The membership of a type I board of education in a qualified  
44 municipality consisting of five members shall be temporarily increased  
45 to include two additional members to be appointed by the Governor  
46 upon receipt of notification by the Commissioner of Education

1 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of  
2 three years, as set forth in subsection a. of this section. The first two  
3 positions on the board, the terms of which expire after the designation  
4 of a qualified municipality, shall be abolished upon expiration of their  
5 terms and shall not be filled by mayoral appointments so that the total  
6 membership of the board returns to five members. The Governor shall  
7 continue to make appointments to fill the positions held by the  
8 gubernatorial appointees, when their terms expire or when a vacancy  
9 occurs, until after the tenth year following the designation of the  
10 qualified municipality. Beginning in the first year following the tenth  
11 year after the designation of the qualified municipality, vacancies  
12 resulting from the expiration of a term, or for any other reason, in any  
13 position on the board filled by gubernatorial appointment shall be filled  
14 in the same manner as provided before the designation of the qualified  
15 municipality.

16 c. The membership of a type I board of education in a qualified  
17 municipality consisting of seven members shall be temporarily  
18 increased to include three additional members to be appointed by the  
19 Governor upon receipt of notification by the Commissioner of  
20 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
21 for a term of three years, as set forth in subsection a. of this section.  
22 The first three positions on the board, the terms of which expire after  
23 the designation of a qualified municipality, shall be abolished upon  
24 expiration of their terms and shall not be filled by mayoral  
25 appointments so that the total membership of the board returns to  
26 seven members. The Governor shall continue to make appointments  
27 to fill the positions held by gubernatorial appointees, when their terms  
28 expire or when a vacancy occurs, until after the tenth year following  
29 the designation of the qualified municipality. Beginning in the first  
30 year following the tenth year after the designation of the qualified  
31 municipality, vacancies resulting from the expiration of a term, or for  
32 any other reason, in any position on the board filled by gubernatorial  
33 appointment shall be filled in the same manner as provided before the  
34 designation of the qualified municipality.

35 d. The membership of a type I board of education in a qualified  
36 municipality consisting of nine members shall be temporarily increased  
37 to include three additional members to be appointed by the Governor  
38 upon receipt of notification by the Commissioner of Education  
39 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of  
40 three years as set forth in subsection a. of this section. The first three  
41 positions on the board, the terms of which expire after the designation  
42 of a qualified municipality, shall be abolished upon expiration of their  
43 terms and shall not be filled by mayoral appointments so that the total  
44 membership of the board returns to nine members. The Governor shall  
45 continue to make appointments to fill the positions held by  
46 gubernatorial appointees, when their terms expire or when a vacancy

1 occurs, until after the tenth year following the designation of the  
2 qualified municipality. Beginning in the first year following the tenth  
3 year after the designation of the qualified municipality, vacancies  
4 resulting from the expiration of a term, or for any other reason, in any  
5 position on the board filled by gubernatorial appointment shall be filled  
6 in the same manner as provided before the designation of the qualified  
7 municipality.

8 e. The membership of a type II board of education in a qualified  
9 municipality consisting of three members shall be temporarily  
10 increased to include one additional member to be appointed by the  
11 Governor upon receipt of notification by the Commissioner of  
12 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
13 for a term of three years as set forth in subsection a. of this section.  
14 The first position on the board, the term of which expires after the  
15 designation of a qualified municipality, shall be abolished upon  
16 expiration of its term and shall not be filled in the same manner as  
17 provided before the designation of the qualified municipality so that  
18 the total membership of the board returns to three members. The  
19 Governor shall continue to make appointments to fill the position held  
20 by a gubernatorial appointee when the term expires or when a vacancy  
21 occurs, until after the tenth year following the designation of the  
22 qualified municipality. Beginning in the first year following the tenth  
23 year after the designation of the qualified municipality, a vacancy  
24 resulting from the expiration of the term in the position on the board  
25 filled by gubernatorial appointment shall be filled in the same manner  
26 as provided before the designation of the qualified municipality.

27 The second position on the board, the term of which expires after  
28 the designation of a qualified municipality, shall be abolished upon  
29 expiration of its term and shall not be filled in the same manner as  
30 provided before the designation of the qualified municipality. Instead,  
31 the vacancy shall be filled by a mayoral appointment as described in  
32 subsection a. of this section so that the total membership of the board  
33 remains at three. Mayoral appointees shall serve for a term of three  
34 years. The mayor shall continue to make appointments to fill the  
35 position held by a mayoral appointee when the term expires or when  
36 a vacancy occurs, until after the tenth year following the designation  
37 of the qualified municipality. Beginning in the first year following the  
38 tenth year after the designation of the qualified municipality, a vacancy  
39 resulting from the expiration of the term in the position on the board  
40 filled by mayoral appointment shall be filled in the same manner as  
41 provided before the designation of the qualified municipality.

42 f. The membership of a type II board of education in a qualified  
43 municipality consisting of five members shall be temporarily increased  
44 to include two additional members to be appointed by the Governor  
45 upon receipt of notification by the Commissioner of Education  
46 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of

1 three years as set forth in subsection a. of this section. The first two  
2 positions on the board, the terms of which expire after the designation  
3 of a qualified municipality, shall be abolished upon expiration of their  
4 terms and shall not be filled in the same manner as provided before the  
5 designation of the qualified municipality so that the total membership  
6 of the board returns to five members. The Governor shall continue to  
7 make appointments to fill the positions held by gubernatorial  
8 appointees when the terms expire or when a vacancy occurs, until after  
9 the tenth year following the designation of the qualified municipality.  
10 Beginning in the first year following the tenth year after the  
11 designation of the qualified municipality, vacancies resulting from the  
12 expiration of a term in any position on the board filled by gubernatorial  
13 appointment shall be filled in the same manner as provided before the  
14 designation of the qualified municipality.

15 The third position on the board, the term of which expires after the  
16 designation of a qualified municipality, shall be abolished upon  
17 expiration of its term and shall not be filled in the same manner as  
18 provided before the designation of the qualified municipality. Instead,  
19 the vacancy shall be filled by a mayoral appointment as described in  
20 subsection a. of this section so that the total membership of the board  
21 remains at five. Mayoral appointees shall serve for a term of three  
22 years. The mayor shall continue to make appointments to fill the  
23 position held by a mayoral appointee when the term expires or when  
24 a vacancy occurs, until after the tenth year following the designation  
25 of the qualified municipality. Beginning in the first year following the  
26 tenth year after the designation of the qualified municipality, a vacancy  
27 resulting from the expiration of the term in the position on the board  
28 filled by mayoral appointment shall be filled in the same manner as  
29 provided before the designation of the qualified municipality.

30 g. The membership of a type II board of education in a qualified  
31 municipality consisting of seven members shall be temporarily  
32 increased to include three additional members to be appointed by the  
33 Governor upon receipt of notification by the Commissioner of  
34 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
35 for a term of three years as set forth in subsection a. of this section.  
36 The first three positions on the board, the terms of which expire after  
37 the designation of a qualified municipality, shall be abolished upon  
38 expiration of their terms and shall not be filled in the same manner as  
39 provided before the designation of the qualified municipality so that  
40 the total membership of the board returns to seven members. The  
41 Governor shall continue to make appointments to fill the positions held  
42 by gubernatorial appointees when the terms expire or when a vacancy  
43 occurs, until after the tenth year following the designation of the  
44 qualified municipality. Beginning in the first year following the tenth  
45 year after the designation of the qualified municipality, vacancies  
46 resulting from the expiration of a term in any position on the board

1 filled by gubernatorial appointment shall be filled in the same manner  
2 as provided before the designation of the qualified municipality.

3 The fourth and fifth positions on the board, the terms of which  
4 expire after the designation of a qualified municipality, shall be  
5 abolished upon expiration of their terms and shall not be filled in the  
6 same manner as provided before the designation of the qualified  
7 municipality. Instead, the vacancies shall be filled by mayoral  
8 appointments as described in subsection a. of this section so that the  
9 total membership of the board remains at seven. Mayoral appointees  
10 shall serve for a term of three years. The mayor shall continue to  
11 make appointments to fill the positions held by mayoral appointees  
12 when the terms expire or when a vacancy occurs, until after the tenth  
13 year following the designation of the qualified municipality. Beginning  
14 in the first year following the tenth year after the designation of the  
15 qualified municipality, vacancies resulting from the expiration of a  
16 term in any position on the board filled by mayoral appointment shall  
17 be filled in the same manner as provided before the designation of the  
18 qualified municipality.

19 h. The membership of a type II board of education in a qualified  
20 municipality consisting of nine members shall be temporarily increased  
21 to include three additional members to be appointed by the Governor  
22 upon receipt of notification by the Commissioner of Education  
23 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of  
24 three years as set forth in subsection a. of this section. The first three  
25 positions on the board, the terms of which expire after the designation  
26 of a qualified municipality, shall be abolished upon expiration of their  
27 terms and shall not be filled in the same manner as provided before the  
28 designation of the qualified municipality so that the total membership  
29 of the board returns to nine members. The Governor shall continue to  
30 make appointments to fill the positions held by gubernatorial  
31 appointees when the terms expire or when a vacancy occurs, until after  
32 the tenth year following the designation of the qualified municipality.  
33 Beginning in the first year following the tenth year after the  
34 designation of the qualified municipality, vacancies resulting from the  
35 expiration of a term in any position on the board filled by gubernatorial  
36 appointment shall be filled in the same manner as provided before the  
37 designation of the qualified municipality.

38 The fourth, fifth and sixth positions on the board, the terms of  
39 which expire after the designation of a qualified municipality, shall be  
40 abolished upon expiration of their terms and shall not be filled in the  
41 same manner as provided before the designation of the qualified  
42 municipality. Instead, the vacancies shall be filled by mayoral  
43 appointment as described in subsection a. of this section so that the  
44 total membership of the board remains at nine. Mayoral appointees  
45 shall serve for a term of three years. The mayor shall continue to  
46 make appointments to fill the positions held by mayoral appointees

1 when the terms expire or when a vacancy occurs, until after the tenth  
2 year following the designation of the qualified municipality. Beginning  
3 in the first year following the tenth year after the designation of the  
4 qualified municipality, vacancies resulting from the expiration of a  
5 term in any position on the board filled by mayoral appointment shall  
6 be filled in the same manner as provided before the designation of the  
7 qualified municipality.

8 i. At all times the board of education and its membership shall  
9 comply with the requirements of the "Open Public Meetings Act,"  
10 P.L.1975, c.231 (C.10:4-6 et seq.) and the "School Ethics Act,"  
11 P.L.1991, c.393 (C.18A:12-21 et seq.), and meet the requirements and  
12 qualifications for board membership established pursuant to chapter 12  
13 of Title 18A of the New Jersey Statutes.

14 (cf: P.L.2002, c.43, s.67)

15  
16 14. Section 68 of P.L.2002, c.43 (C.52:27BBB-64) is amended to  
17 read as follows:

18 68. a. Notwithstanding the provisions of Title 18A or any other  
19 law, rule, or regulation to the contrary, the minutes of every meeting  
20 of the board of education of a school district contiguous with a  
21 qualified municipality [and constituted pursuant to N.J.S.18A:9-3]  
22 subject to level II or level III monitoring and identified by the  
23 commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
24 shall be subject to the veto provisions set forth in subsection b. of this  
25 section. This section shall not apply to State-operated school districts  
26 established pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.).

27 b. A true copy of the minutes of every meeting of a board of  
28 education described in subsection a. of this section shall be forthwith  
29 delivered by and under the certification of the secretary thereof to the  
30 Governor. No action taken at that meeting of the board of education  
31 shall have force or effect until 15 days after a copy of the minutes shall  
32 have been so delivered unless during that 15-day period the Governor  
33 shall approve those minutes, in which case the action shall become  
34 effective upon that approval. If, in the 15-day period, the Governor  
35 returns the copy of those minutes with a veto of any action taken by  
36 the board of education or any member thereof at that meeting, the  
37 action shall be null and void and of no effect.

38 (cf: P.L.2002, c.43, s.68)

39  
40 15. Section 8 of P.L.1983, c.530 (C.55:14K-8) is amended to read  
41 as follows:

42 8. a. Admission to housing projects constructed, improved or  
43 rehabilitated under this act shall be limited to families whose gross  
44 aggregate family income at the time of admission does not exceed six  
45 times the annual rental or carrying charges, including the value or cost  
46 to them of heat, light, water, sewerage, parking facilities and cooking

1 fuel, of the dwellings that may be furnished to such families, or seven  
2 times those charges if there are three or more dependents. There may  
3 be included in the carrying charges to any family for residence in any  
4 mutual housing project constructed, improved or rehabilitated with a  
5 loan from the agency an amount equal to 6% of the original cash  
6 investment of the family in the mutual housing project and, to the  
7 extent authorized by the agency where not included in the carrying  
8 charges, the value or cost of repainting the apartment and replacing  
9 any fixtures or appliances. Notwithstanding the provisions of this  
10 section, no family or individual shall be eligible for admission to any  
11 housing project constructed, improved or rehabilitated with a loan  
12 from the agency, whose gross aggregate family income exceeds such  
13 amount as shall be established from time to time by the agency, by  
14 rules or regulations promulgated hereunder; except that with respect  
15 to any project financed by an agency loan insured or guaranteed by the  
16 United States of America or any agency or instrumentality thereof, the  
17 agency may adopt the admission standards for such projects then  
18 currently utilized or required by the guarantor or insurer.

19 The provisions of this subsection shall not apply to any housing  
20 project situated in a qualified municipality that is constructed,  
21 improved or rehabilitated on or after the [effective date of P.L.2002,  
22 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner  
23 determines that the municipality fulfills the definition of a qualified  
24 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

25 b. The agency shall by rules and regulations provide for the  
26 periodic examination of the income of any person or family residing in  
27 any housing project constructed, improved or rehabilitated with a loan  
28 from the agency. If the gross aggregate family income of a family  
29 residing in a housing project increases and the ratio to the current  
30 rental or carrying charges of the dwelling unit becomes greater than  
31 the ratio prescribed for admission in subsection a. of this section but  
32 is not more than 25% above the family income so prescribed for  
33 admission to the project, the owner or managing agent of the housing  
34 project shall permit the family to continue to occupy the unit. The  
35 agency or (with the approval of the agency) the housing sponsor of  
36 any housing project constructed, improved or rehabilitated with a loan  
37 from the agency, may terminate the tenancy or interest of any family  
38 residing in the housing project whose gross aggregate family income  
39 exceeds by 25% or more the amount prescribed herein and which  
40 continues to do so for a period of six months or more; but no tenancy  
41 or interest of any such family in any such housing project shall be  
42 terminated except upon reasonable notice and opportunity to obtain  
43 suitable alternate housing, in accordance with rules and regulations of  
44 the agency; and any such family, with the approval of the agency, may  
45 be permitted to continue to occupy the unit, subject to payment of a  
46 rent or carrying charge surcharge to the housing sponsor in

1 accordance with a schedule of surcharges fixed by the agency. The  
2 housing sponsor shall pay the surcharge to the municipality granting  
3 tax exemption, but only up to an amount that together with payments  
4 made to the municipality in lieu of taxes and for any land taxes equals  
5 25% of the total rents or carrying charges of the housing project for  
6 the current and any prior years that the project has been in operation.

7 The provisions of this subsection shall not apply to any housing  
8 project situated in a qualified municipality that is constructed,  
9 improved or rehabilitated on or after the [effective date of P.L.2002,  
10 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner  
11 determines that the municipality fulfills the definition of a qualified  
12 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

13 c. For projects on which the agency has made a loan and financed  
14 the loan with the proceeds of bonds issued prior to January 1, 1973,  
15 any remainder of the surcharge, or the total surcharge if tax exemption  
16 has not been granted, shall be paid into the housing finance fund  
17 securing the bonds issued to finance the project for the use of the  
18 agency; for projects financed on or after January 1, 1973, any  
19 remainder of the surcharge, or the total surcharge if tax exemption has  
20 not been granted, shall be paid to the agency.

21 d. Any family residing in a mutual housing project required to  
22 remove from the project because of excessive income as herein  
23 provided shall be discharged from liability on any note, bond or other  
24 evidence of indebtedness relating thereto and shall be reimbursed, in  
25 accordance with the rules of the agency, for all sums paid by the family  
26 to the housing sponsor on account of the purchase of stock or  
27 debentures as a condition of occupancy or on account of the  
28 acquisition of title for such purpose.

29 The provisions of this subsection shall not apply to any housing  
30 project situated in a qualified municipality that is constructed,  
31 improved or rehabilitated on or after the [effective date of P.L.2002,  
32 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner  
33 determines that the municipality fulfills the definition of a qualified  
34 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

35 e. The agency shall establish admission rules and regulations for  
36 any housing project financed in whole or in part by loans authorized  
37 hereunder which shall provide priority categories for person displaced  
38 by urban renewal projects, highway programs or other public works,  
39 persons living in substandard housing, persons and families who, by  
40 reason of family income, family size or disabilities, have special needs,  
41 elderly persons and families living under conditions violative of  
42 minimum health and safety standards.

43 The provisions of this subsection shall not apply to any housing  
44 project situated in a qualified municipality that is constructed,  
45 improved or rehabilitated on or after the [effective date of P.L.2002,  
46 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner



1 determines that the municipality fulfills the definition of a qualified  
2 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).  
3 (cf: P.L.2002, c.43, s.65)

4  
5 16. (New section) Upon receipt of notification by the  
6 commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-  
7 4), the State Treasurer shall prepare an economic stimulus package  
8 designed to foster the revitalization of the qualified municipality and  
9 submit those recommendations, along with amounts necessary to  
10 achieve those revitalization objectives to the Governor, each member  
11 of the Senate and General Assembly, and each member of the State  
12 Economic Recovery Board for the qualified municipality established  
13 pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36), within 60  
14 days following the appointment of the last member. The economic  
15 stimulus package for the first municipality designated following the  
16 effective date of P.L.2002, c.43 (C.52:27BBB-1 et seq.) shall consist  
17 of those financing arrangements set forth in Article 5 of P.L.2002, c.43  
18 (C.52:27BBB-44 through 52).

19  
20 17. This act shall take effect immediately and shall be retroactive  
21 to June 30, 2002.

#### 22 23 STATEMENT

24  
25 This bill amends and clarifies the "Municipal Rehabilitation and  
26 Economic Recovery Act," P.L.2002, c.43, in order to ensure an  
27 accurate expression of the legislative intent in enacting that law. That  
28 act is now the subject of litigation contending that it is improper.  
29 Although the Legislature contends that a lower court determination  
30 regarding two sections of that enactment misconstrued the legislative  
31 intent of P.L.2002, c.43, it is the Legislature's opinion that given the  
32 urgent nature of the problems the act seeks to address, it is preferable  
33 to clarify some of the issues raised through legislative enactment rather  
34 than through time-consuming, costly litigation. At a time when public  
35 resources are scarce and the underlying conditions that the act  
36 confronts require coordinated, targeted and early solutions, it is  
37 important that public dollars and resources be spent on rehabilitation  
38 and recovery.

39 Ofttimes, the fiscal stress, economic impoverishment, crime, and  
40 financial mismanagement which characterizes certain municipalities in  
41 this State also afflict the school district which serves the same  
42 population, but not necessarily. Certainly there exists ample  
43 justification for a multipronged approach to urban revitalization which  
44 recognizes the importance of addressing problems which exist in the  
45 school district simultaneously with those on the municipal side of  
46 government operation. Given the magnitude of the State's investment

1 in these municipalities and the failure of previous legislative measures  
2 to resolve the problems of municipalities with these characteristics, the  
3 Legislature has developed a response that seeks to improve  
4 governance at both the municipal and school district level, at a time  
5 when substantial resources will be directed to the community.

6 As a result, the Legislature has imposed certain criteria limiting the  
7 act's application to municipalities that have been or may be subject to  
8 oversight by both a financial review board and the local finance board  
9 and which receive at least 55 percent of their budgets from State  
10 appropriations, now or in the future. These qualified municipalities  
11 are characterized by recurring fiscal distress, difficulties in managing  
12 public dollars and resources and chronic reliance on State revenues.

13 P.L.2002, c.43 applied to any school district contiguous with a  
14 qualified municipality. Instead, this bill provides for a parallel process  
15 of designating a school district. The pertinent provisions of the bill  
16 address only districts that are located in a qualified municipality and  
17 that are subject to Level II or Level III monitoring pursuant to  
18 N.J.S.A.18A:7A-14. Thus, only those schools that are not making  
19 sufficient progress to meet the thoroughness and efficiency standards  
20 due to problems in the district's operation are subject to these  
21 provisions. These requirements ensure that the State oversight of  
22 school districts, as contemplated by the act, will be appropriately  
23 applied only in districts that are subject to State monitoring.

24 At present, only the City of Camden and its school district meet the  
25 criteria specified in the act. It is not, however, the Legislature's intent  
26 to exclude other municipalities whose financial circumstances and  
27 governance challenges, as defined under the act, may require similar  
28 responses in the future.

29 Among the bill's provisions are language amendments clarifying and  
30 reaffirming that other similarly situated municipalities may meet the  
31 criteria of a qualified municipality and specifying when and how the  
32 act becomes effective in other municipalities. The bill also amends  
33 those provisions relating to the expansion and composition of boards  
34 of education in qualified municipalities (subject to Level II and III  
35 monitoring) so that they apply to the variety of board types found  
36 throughout the State through the addition of language providing a  
37 "composition" formula for boards composed of 3, 5 and 7 members.

38 Finally, the bill establishes a process for determining appropriations  
39 and allocations of monies to municipalities other than Camden that  
40 meet the definition of a qualified municipality subsequent to the  
41 passage of the act. This provision requires the State Treasurer to  
42 prepare an economic stimulus package that will be carefully tailored  
43 to meet the needs of any subsequently qualifying municipality and will  
44 foster its revitalization. The Treasurer's comprehensive plan is then  
45 required to be submitted to the State Economic Recovery Board for  
46 that municipality within 60 days following the appointment of the last

1 member. As a result, any subsequently qualifying municipality will  
2 find itself benefiting from an immediate economic stimulus plan  
3 developed by the State Treasurer.

4 The bill would also add two nonvoting ex officio legislative  
5 members to the State Economic Recovery Board to be appointed by  
6 the Governor, one of whom upon the recommendation of the Senate  
7 President and the other upon the recommendation of the Speaker of the  
8 General Assembly. These members are nonvoting, advisory members,  
9 appointed solely for the purpose of developing and facilitating  
10 legislation to assist the board in fulfilling its statutory mission, and may  
11 not exercise any of the executive powers delegated to the board.

12 In conclusion, these amendments detail a variety of appropriate  
13 steps necessary to ensure coordinated and effective governance and  
14 revitalization at the municipal level while ensuring, if necessary,  
15 effective governance at the school district level. These complementary  
16 goals protect the municipal tax base, assist the district in improving the  
17 quality of education and assist revitalization and redevelopment by  
18 improving the municipal infrastructure, including the educational  
19 opportunities offered to its citizens.

SENATE ECONOMIC GROWTH, AGRICULTURE AND  
TOURISM COMMITTEE

STATEMENT TO

**SENATE, No. 1878**

**STATE OF NEW JERSEY**

DATED: OCTOBER 24, 2002

The Senate Economic Growth, Agriculture and Tourism Committee reports favorably Senate Bill No. 1878.

This bill amends and clarifies the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43, ("the act") in order to ensure an accurate expression of the legislative intent in enacting that act. That act is now the subject of litigation contending that it is improper. As a result, the Legislature has imposed certain criteria limiting the act's application to municipalities that have been or may be subject to oversight by both a financial review board and the Local Finance Board and which receive at least 55 percent of their budgets from State appropriations, now or in the future. These qualified municipalities are characterized by recurring fiscal distress, difficulties in managing public dollars and resources and chronic reliance on State revenues.

The bill amends the act by clarifying and reaffirming that other similarly situated municipalities may meet the criteria of a qualified municipality and by specifying when and how the act becomes effective in other municipalities. The bill amends those provisions of the act relating to the expansion and composition of boards of education in qualified municipalities (subject to Level II and III monitoring pursuant to N.J.S.A. 18A:7A-14) so that they apply to the variety of board types found throughout the State through the addition of language providing a "composition" formula for boards composed of three, five and seven members.

The bill establishes a process for determining appropriations and allocations of monies to municipalities other than Camden that meet the definition of a qualified municipality subsequent to the passage of the act. This provision requires the State Treasurer to prepare an economic stimulus package that will be carefully tailored to meet the needs of any subsequently qualifying municipality and will foster its revitalization. The Treasurer's comprehensive plan is then required to be submitted to the State Economic Recovery Board for that municipality within 60 days following the appointment of the last member.

Finally, the bill adds two nonvoting ex officio legislative members to the State Economic Recovery Board to be appointed by the Governor, one of whom upon the recommendation of the Senate President and the other upon the recommendation of the Speaker of the General Assembly. These members are nonvoting, advisory members, appointed solely for the purpose of developing and facilitating legislation to assist the board in fulfilling its statutory mission, and may not exercise any of the executive powers delegated to the board.

**ASSEMBLY, No. 2772**

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**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

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INTRODUCED SEPTEMBER 19, 2002

**Sponsored by:**

**Assemblyman JOSEPH J. ROBERTS, JR.**

**District 5 (Camden and Gloucester)**

**Assemblywoman NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Amends "Municipal Rehabilitation and Economic Recovery Act."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 9/24/2002)**

1 AN ACT clarifying certain provisions of P.L.2002, c.43, amending and  
2 supplementing P.L.2002, c.43 (C.52:27BBB-1 et seq.).

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. (New section) The Legislature finds and declares that:

8 a. The court decision striking certain provisions of P.L.2002, c.43  
9 requires the Legislature to clarify its intent in approving that act;

10 b. The court's interpretation of P.L.2002, c.43 is contrary to the  
11 intent of the Legislature and as a result, amendatory legislation  
12 removing any question regarding the intent, scope and applicability of  
13 that act is appropriate;

14 c. It is also important to clarify and expand upon a legislative intent  
15 of focusing redevelopment efforts in qualified municipalities by  
16 ensuring that the expenditure of public dollars for development and  
17 redevelopment is coordinated with the expenditure of public dollars  
18 supporting schools and educational efforts in such municipalities; and

19 d. Given the magnitude of the State's investment in a qualified  
20 municipality, it is incumbent upon the State to take the appropriate  
21 steps necessary to ensure effective governance at the school district  
22 level in addition to effective governance at the municipal level. Not  
23 only will limited school district oversight ensure the coordinated  
24 expenditures of public funds, it will ensure that the proposed local tax  
25 levy to support the district's schools will not further burden the  
26 municipal tax base. Additionally, this oversight will assist the district  
27 in improving the quality of education provided to students in the  
28 municipality. Enhancing educational quality will, in turn, assist  
29 housing revitalization by attracting new families to the community and  
30 preventing flight of current residents. It will also serve to attract new  
31 businesses and potential employers because the community can offer  
32 better-prepared graduates to the workforce.

33  
34 2. Section 2 of P.L.2002, c.43 (C.52:27BBB-2) is amended to read  
35 as follows:

36 2. The Legislature finds and declares that:

37 a. There exists in certain municipalities a continuing state of fiscal  
38 distress which endures despite the imposition of a series of measures  
39 authorized pursuant to law;

40 b. Economically impoverished, those municipalities have a history  
41 of high crime rates, including arson, that has necessitated the  
42 maintenance of large police and fire departments, at enormous  
43 taxpayer cost in municipalities without a sound tax base;

**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 c. The past fifty years have witnessed the depopulation of those  
2 municipalities characterized by such problems;
- 3 d. Spending power on the part of residents of these municipalities  
4 is severely limited and local businesses thereby suffer from the lack of  
5 an indigenous client base so that rebuilding the fortunes of city  
6 residents in order to recreate a viable urban economy will require a  
7 considerable period of time;
- 8 e. Notwithstanding the prosperity which has been experienced  
9 elsewhere throughout New Jersey in recent years, the unemployment  
10 rate in these municipalities is substantially higher than that of most  
11 other municipalities;
- 12 f. While the rest of New Jersey has enjoyed increased land values,  
13 the ratable base in these municipalities has declined steadily during the  
14 1990's, marked by their low equalized value per capita which can be  
15 about one-half that of other cities;
- 16 g. Coupled with this economic deprivation, many of these  
17 municipalities are characterized by a lack of internal audit controls,  
18 accountability and oversight, evidenced by the fact that although real  
19 estate taxes comprise over two-thirds of locally generated revenues,  
20 many of these municipalities do not rigorously enforce collection and  
21 receive but a portion of their levy;
- 22 h. Although the State has experienced a period of tremendous  
23 prosperity and economic growth over the past few years, such  
24 municipalities continue to languish without any obvious signs of  
25 improvement;
- 26 i. These municipalities have experienced a substantial budget deficit  
27 for many years which has only been addressed through extraordinary  
28 payments of State aid;
- 29 j. While State aid dollars which have been directed toward such  
30 municipalities have served to address their structural deficits, they  
31 have not, and cannot, function as an economic impetus toward the  
32 rebuilding of those municipalities;
- 33 k. Because a significant proportion of the population of such  
34 municipalities lacks adequate health insurance coverage, causing many  
35 to seek basic care in municipal emergency rooms, municipal hospitals  
36 are heavily dependent upon state assistance commonly referred to as  
37 "charity care" for reimbursement. Such health services are crucial to  
38 the overall health of the infrastructure and social growth and stability  
39 of qualified municipalities. Moreover, the demand for such health  
40 services has necessitated planning for a major expansion of medical  
41 school programs within qualified municipalities;
- 42 l. Given the high crime rates in these municipalities, if economic  
43 recovery is to be successful, it is vital that municipal residents feel that  
44 their basic safety is assured; accordingly, the State will continue to  
45 commit to assist such municipalities in maintaining not less than that  
46 number of police officers employed by the municipality [on the



1 effective date of P.L.2002, c.43 (C.52:27BBB-1 et al.)] at the time  
2 of the determination by the commissioner that the municipality fulfills  
3 the definition of a qualified municipality and in creating working  
4 relationships between State agencies, local law enforcement and the  
5 community to identify and develop strategies to improve the quality of  
6 life and the security of residents in qualified municipalities;

7 m. In order to ensure the long-term economic viability of such  
8 municipalities, it is critical that the Legislature encourage, to the  
9 extent possible, the production of market-rate housing within the  
10 municipality so as to expand the local tax base and provide a greater  
11 diversity of income levels among municipal inhabitants;

12 n. When faced with analogous situations, other states have  
13 employed extraordinary measures to provide leadership and oversight  
14 for struggling cities and the necessary tools to spur an economic  
15 revival within those cities; and

16 o. In light of the dire needs faced by such municipalities and the  
17 lack of progress in addressing those needs either governmentally or  
18 through private sector initiative, and given the successful interventions  
19 on the part of other states in analogous circumstances, it is incumbent  
20 upon the State to take exceptional measures, on an interim basis, to  
21 rectify certain governance issues faced by such municipalities and to  
22 strategically invest those sums of money necessary in order to assure  
23 the long-term financial viability of these municipalities.

24 (cf: P.L.2002, c.43, s.2)

25

26 3. Section 3 of P.L.2002, c.43 (C.52:27BBB-3) is amended to read  
27 as follows:

28 3. As used in this act:

29 "Authority" means the New Jersey Economic Development  
30 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

31 "Board" means the State Economic Recovery Board established  
32 pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36).

33 "Chief operating officer" means that person appointed pursuant to  
34 P.L.2002, c.43 (C.52:27BBB-1 et al.) responsible for reorganizing  
35 governmental operations of a qualified municipality in order to assure  
36 the delivery of essential municipal services and the professional  
37 administration of that municipal government.

38 "Commissioner" means the Commissioner of Community Affairs.

39 "Contiguous with" means within.

40 "Director" means the Director of the Division of Local Government  
41 Services in the Department of Community Affairs.

42 "Economic recovery term" means the period commencing with the  
43 expiration of the term of the chief operating officer and terminating  
44 five years thereafter.

45 "In consultation with" means with consideration of the input of, or  
46 the advice of, the mayor, governing body, chief operating officer or

1 director, as the case may be, without regard to the form or manner of  
2 the consultation.

3 "Local Finance Board" means the Local Finance Board of the  
4 Division of Local Government Services in the Department of  
5 Community Affairs.

6 "Mayor" means the mayor or chief executive officer of the  
7 municipality, as appropriate to the form of government.

8 "Project" means: (1) (a) acquisition, construction, reconstruction,  
9 repair, alteration, improvement and extension of any building,  
10 structure, facility, including water transmission facilities or other  
11 improvement, whether or not in existence or under construction, (b)  
12 purchase and installation of equipment and machinery, (c) acquisition  
13 and improvement of real estate and the extension or provision of  
14 utilities, access roads and other appurtenant facilities; and (2) (a) the  
15 acquisition, financing, or refinancing of inventory, raw materials,  
16 supplies, work in process, or stock in trade, or (b) the financing,  
17 refinancing or consolidation of secured or unsecured debt, borrowings,  
18 or obligations, or (c) the provision of financing for any other expense  
19 incurred in the ordinary course of business; all of which are to be used  
20 or occupied by any person in any enterprise promoting employment,  
21 either for the manufacturing, processing or assembly of materials or  
22 products, or for research or office purposes, including, but not limited  
23 to, medical and other professional facilities, or for industrial,  
24 recreational, hotel or motel facilities, public utility and warehousing,  
25 or for commercial and service purposes, including, but not limited to,  
26 retail outlets, retail shopping centers, restaurant and retail food  
27 outlets, and any and all other employment promoting enterprises,  
28 including, but not limited to, motion picture and television studios and  
29 facilities and commercial fishing facilities, commercial facilities for  
30 recreational fishermen, fishing vessels, aquaculture facilities and  
31 marketing facilities for fish and fish products and (d) acquisition of an  
32 equity interest in, including capital stock of, any corporation; or any  
33 combination of the above, which the authority determines will: (i) tend  
34 to maintain or provide gainful employment opportunities within and  
35 for the people of the State, or (ii) aid, assist and encourage the  
36 economic development or redevelopment of any political subdivision  
37 of the State, or (iii) maintain or increase the tax base of the State or of  
38 any political subdivision of the State, or (iv) maintain or diversify and  
39 expand employment promoting enterprises within the State; and (3)  
40 the cost of acquisition, construction, reconstruction, repair, alteration,  
41 improvement and extension of an energy saving improvement or  
42 pollution control project which the authority determines will tend to  
43 reduce the consumption in a building devoted to industrial or  
44 commercial purposes, or in an office building, of nonrenewable  
45 sources of energy or to reduce, abate or prevent environmental  
46 pollution within the State; and (4) the acquisition, construction,

1 reconstruction, repair, alteration, improvement, extension,  
2 development, financing or refinancing of infrastructure and  
3 transportation facilities or improvements related to economic  
4 development and of cultural, recreational and tourism facilities or  
5 improvements related to economic development and of capital facilities  
6 for primary and secondary schools and of mixed use projects  
7 consisting of housing and commercial development; and (5) the  
8 establishment, acquisition, construction, rehabilitation, improvement,  
9 and ownership of port facilities as defined in section 3 of P.L.1997,  
10 c.150 (C.34:1B-146). Project may also include: reimbursement to any  
11 person for costs in connection with any project, or the refinancing of  
12 any project or portion thereof, if such actions are determined by the  
13 authority to be necessary and in the public interest to maintain  
14 employment and the tax base of any political subdivision and likely to  
15 facilitate improvements or the completion of the project; and  
16 developing property and any construction, reconstruction,  
17 improvement, alteration, equipment or maintenance or repair, or  
18 planning and designing in connection therewith. For the purpose of  
19 carrying out mixed use projects consisting of both housing and  
20 commercial development, the authority may enter into agreements with  
21 the New Jersey Housing and Mortgage Finance Agency for loan  
22 guarantees for any such project in accordance with the provisions of  
23 P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall  
24 allocate to the New Jersey Housing and Mortgage Finance Agency,  
25 under such agreements, funding available pursuant to subsection a. of  
26 section 4 of P.L.1992, c.16 (C.34:1B-7.13). "Project" shall not  
27 include a school facilities project.

28 "Qualified municipality" means a municipality: (1) that has been  
29 subject to the supervision of a financial review board pursuant to the  
30 "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et  
31 seq.) for at least one year; (2) that has been subject to the supervision  
32 of the Local Finance Board pursuant to the "Local Government  
33 Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) for  
34 at least one year; and (3) which, according to its most recently  
35 adopted municipal budget [on the effective date of P.L.2002, c.43  
36 (C.52:27BBB-1 et al.)], is dependent upon State aid and other State  
37 revenues for not less than 55 percent of its total budget.

38 "Regional Impact Council" or "council" means that body established  
39 pursuant to section 39 of P.L.2002, c.43 (C.52:27BBB-39).

40 "Rehabilitation term" means that period during which the qualified  
41 municipality is under the direction of the chief operating officer  
42 appointed pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7).

43 "Special arbitrator" means that judge designated by the Chief Justice  
44 pursuant to section 5 of P.L.2002, c.43 (C.52:27BBB-5).

45 "State supervision" means supervision pursuant to Article 4 of the  
46 "Local Government Supervision Act (1947)," P.L.1947, c.151

1 (C.52:27BB-54 et seq.).

2 "Treasurer" or "State treasurer" means the Treasurer of the State  
3 of New Jersey.

4 "Under rehabilitation and economic recovery" means that period  
5 which coincides with the rehabilitation term and the economic  
6 recovery term.

7 (cf: P.L.2002, c.43, s.3)

8

9 4. Section 4 of P.L.2002, c.43 (C.52:27BBB-4) is amended to read  
10 as follows:

11 4. Within 30 days of the effective date of P.L.2002, c.43  
12 (C.52:27BBB-1 et al.),and thereafter within 30 days of the deadline  
13 for the adoption of municipal budgets pursuant to the "Local Budget  
14 Law," N.J.S.40A:4-1 for each calendar or State fiscal year, as  
15 appropriate to the budget adoption schedule, the commissioner shall  
16 make a determination regarding which municipalities fulfill the  
17 definition of a qualified municipality pursuant to P.L. , c. (C. )  
18 (pending before the Legislature as this bill) and shall notify the  
19 Governor, the State Treasurer, the mayor and each member of the  
20 governing body of each qualified municipality that the municipality is  
21 subject to the provisions of the "Municipal Rehabilitation and  
22 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). The  
23 date of the notification shall be considered the date a municipality is  
24 designated as a qualified municipality. In addition, the commissioner  
25 shall notify:

26 a. the county executive, county manager, the freeholder director  
27 or chairperson, as appropriate to the form of government, and each  
28 member of the board of chosen freeholders of each county in which is  
29 situated a qualified municipality;

30 b. the Chief Justice of the New Jersey Supreme Court; [and]

31 c. each member of the Senate and General Assembly; and

32 d. the Commissioner of Education. If the commissioner determines  
33 that any school district which is contiguous with the qualified  
34 municipality is subject to level II or level III monitoring pursuant to  
35 section 14 of P.L.1975, c.212 (C.18A:7A-14), the commissioner shall  
36 forthwith notify the Governor and the board of education of the school  
37 district that the school district is subject to the provisions of sections  
38 67 and 68 of P.L.2002, c.43 (C.52:27BBB-63 and 64).

39 Any designation of a qualified municipality made pursuant to  
40 P.L.2002, c.43 (C.52:27BBB-1 et seq.) prior to the enactment  
41 of P.L. , c. (C. ) (pending before the Legislature as this  
42 bill) is continued.

43 (cf: P.L.2002, c.43, s.4)

44

45 5. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to read  
46 as follows:

1       6. a. Upon the appointment of a chief operating officer pursuant  
2 to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified  
3 municipality shall be under rehabilitation and economic recovery. This  
4 period shall begin with the assumption of job responsibilities by the  
5 chief operating officer pursuant to this section and terminate five years  
6 following the end of the term of the chief operating officer. The  
7 period corresponding with the term of the chief operating officer shall  
8 be referred to hereinafter as the rehabilitation term. The period  
9 commencing with the expiration of the term of the chief operating  
10 officer and terminating five years thereafter shall be referred to  
11 hereinafter as the economic recovery term.

12       b. During the economic recovery term, the mayor shall exercise  
13 those powers delegated to the mayor pursuant to the form of  
14 government, the charter and the administrative code of the  
15 municipality, and those powers delegated to the mayor under general  
16 law. In addition, during the economic recovery term, the mayor shall  
17 retain the power to veto the minutes of any independent board or  
18 authority, including, but not limited to, the housing authority, parking  
19 authority, redevelopment authority, planning board and board of  
20 adjustment.

21       While the municipality is under rehabilitation and economic  
22 recovery, the mayor shall retain the power to make those appointments  
23 to municipal authorities, boards or commissions, as the case may be,  
24 which is otherwise allocated to the mayor pursuant to law.

25       The mayor may retain staff for the purpose of advising the mayor  
26 and aiding in the performance of constituent services.

27       c. Upon the assumption of job responsibilities by the chief  
28 operating officer, the financial review board created pursuant to  
29 section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the  
30 finances of the municipality shall cease to function and the municipality  
31 shall cease to be under supervision pursuant to Article 4 of P.L.1947,  
32 c.151 (C.52:27BB-54 et seq.).

33       All outstanding debts or obligations incurred by [the] a qualified  
34 municipality or the New Jersey Housing and Mortgage Finance  
35 Agency established pursuant to section 4 of the "New Jersey Housing  
36 and Mortgage Finance Agency Law of 1983," P.L.1983, c.530  
37 (C.55:14K-4) and secured by a right of first refusal on municipally-  
38 owned property as of [60] 10 days following [the effective date of  
39 P.L.2002, c.43 (C.52:27BBB-1 et al.)] a determination by the  
40 commissioner that the municipality fulfills the definition of a qualified  
41 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4),  
42 with any subsidiary of that agency with jurisdiction in a qualified  
43 municipality, other than those debts or obligations represented by  
44 bonds or other negotiable instruments, are forgiven.

45       Notwithstanding the termination of the financial review board and  
46 supervision, all memorandums of understanding entered into by the

1 municipality as a condition of receiving assistance under P.L.1987,  
2 c.75 (C.52:27D-118.24 et seq.) that require the municipality to  
3 implement any government, administrative, operational efficiency or  
4 oversight measures necessary for the fiscal recovery of the  
5 municipality as recommended by the director and approved by the  
6 Local Finance Board shall continue to have full force and effect.  
7 (cf: P.L.2002, c.43, s.6)

8  
9 6. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to read  
10 as follows:

11 7. a. [Within 30 days following the enactment of P.L.2002, c.43  
12 (C.52:27BBB-1 et al.)] Upon receiving notification by the  
13 Commissioner of Community Affairs pursuant to section 4 of  
14 P.L.2002, c.43 (C.52:27BBB-4), the Governor shall appoint the chief  
15 operating officer in consultation with the mayor and the governing  
16 body. The chief operating officer shall serve at the pleasure of the  
17 Governor. The chief operating officer shall be qualified by training  
18 and experience for the position and shall have at least 10 years of  
19 experience in the management or supervision of government activities,  
20 three years of which may be substituted by an advanced degree in  
21 business, law, or public administration.

22 b. Pending the appointment of a chief operating officer or, in the  
23 event of the death, resignation, removal or inability of the chief  
24 operating officer to discharge the duties of that office, the functions,  
25 powers and duties of the chief operating officer shall devolve upon the  
26 director, for the time being, until a chief operating officer is appointed  
27 or is able to discharge the duties of that office. In the event that the  
28 chief operating officer does not serve out the chief operating officer's  
29 term of office for any reason, a successor shall be chosen by the  
30 Governor.

31 c. The term of the chief operating officer shall terminate five years  
32 following the assumption of duties on the part of the chief operating  
33 officer. The chief operating officer may be hired as a State employee  
34 in the unclassified service of Title 11A, Civil Service, of the New  
35 Jersey Statutes or may be hired under contract, as provided hereunder.  
36 Notwithstanding any other provision of law, no person so appointed  
37 shall acquire tenure.

38 If the chief operating officer is hired under contract, the person  
39 hired shall meet the qualifications set forth herein, and it shall be clear  
40 from the contract that the position is full-time and that the job site  
41 shall be at the principal offices of the municipality. If, for any reason,  
42 a person engaged under contract is unable to fulfill the job  
43 responsibilities of chief operating officer, the selection process shall be  
44 recommenced in accordance with the provisions of this section.

45 If the chief operating officer is hired under contract, the contract  
46 shall be available for public inspection in the office of the municipal

1 clerk.

2 d. Subject to the approval of the commissioner, the salary, benefits  
3 and costs of the chief operating officer shall be fixed by the board and  
4 adjusted from time to time as the board deems appropriate. The salary  
5 level and benefits shall be comparable to that of the director of any  
6 public authority or agency with jurisdiction in the qualified  
7 municipality. The salary, benefits, and costs of the chief operating  
8 officer shall be an expense of the State.

9 (cf: P.L.2002, c.43, s.7)

10

11 7. Section 36 of P.L.2002, c.43 (C.52:27BBB-36) is amended to  
12 read as follows:

13 36. a. In order to facilitate the rehabilitation and economic recovery  
14 of each qualified municipality, there is created a subsidiary corporation  
15 of the New Jersey Economic Development Authority, which shall be  
16 known as the State Economic Recovery Board for (insert name of  
17 qualified municipality). The board shall operate for the period during  
18 which the municipality is under rehabilitation and economic recovery  
19 and for a period of two years thereafter. Any outstanding debts or  
20 obligations which remain at the termination of board operation shall be  
21 assumed by the authority and any accounts payable to the board shall  
22 be due and payable to the authority.

23 b. The board shall consist of 15 voting members, as follows: the  
24 mayor of the qualified municipality; a representative of the municipal  
25 governing body selected by the governing body; the chief operating  
26 officer; the State Treasurer; the Commissioner of Community Affairs;  
27 the chairperson of the authority; a representative of the regional  
28 impact council selected by the council; the director of the board of  
29 chosen freeholders of the county in which the qualified municipality is  
30 situated, as provided hereunder, all of whom shall serve ex officio and  
31 may select a designee to serve in their stead; one public member  
32 chosen by the Governor, based on the recommendation of the Senate  
33 President and one public member chosen by the Governor, based on  
34 the recommendation of the Assembly Speaker; and five public  
35 members to be appointed by the Governor, to include one  
36 representative of organized labor and one representing the business  
37 community. Of the public members appointed by the Governor, at  
38 least three shall be municipal residents. The board shall include two  
39 nonvoting ex officio legislative members to be chosen by the  
40 Governor, one of whom shall be selected based on the  
41 recommendation of the Senate President and the other upon the  
42 recommendation of the Speaker of the General Assembly. These  
43 members shall be advisory members, appointed solely for the purpose  
44 of developing and facilitating legislation to assist the board in fulfilling  
45 its statutory mission, and may not exercise any of the executive  
46 powers delegated to the board. In addition, the Senior Community

1 Builder in the State office of the federal Department of Housing and  
2 Urban Development shall serve as an ex officio, non-voting member  
3 of the board.

4 A majority of the entire authorized voting membership of the board  
5 shall constitute a quorum at any meeting thereof.

6 c. Each public member shall serve for a term of five years.  
7 Vacancies in the public membership of the board shall be filled in the  
8 same manner as the original appointments are made and a member may  
9 be eligible for reappointment. Vacancies occurring other than by  
10 expiration of a term shall be filled for the unexpired term. Each ex  
11 officio member shall serve for the period during which the municipality  
12 is under rehabilitation and economic recovery and for a period of two  
13 years thereafter.

14 The Governor shall designate the chairperson of the board.

15 d. The board shall be appointed as expeditiously as possible upon  
16 the [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)] determination by the commissioner that the municipality fulfills the  
17 definition of a qualified municipality pursuant to section 4 of P.L.2002,  
18 c.43 (C.52:27BBB-4) and shall convene not later than 30 days  
19 following [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)] that  
20 determination for its organizational meeting. Thereafter, the board  
21 shall meet regularly and on not less than a quarterly basis. At its first  
22 organizational meeting, the board shall appoint one of the public  
23 members to serve as its designee on the New Jersey Economic  
24 Development Authority pursuant to section 4 of P.L.1974, C.80 as  
25 amended by section 69 of P.L.2002, c.43 (C.34:1B-4).

26 e. The voting authority of the director of the county board of  
27 chosen freeholders shall not become effective until the filing with the  
28 Secretary of State of an agreement entered into by the chief operating  
29 officer, acting on behalf of the municipality, and the county, detailing  
30 the financial commitment of the county to the redevelopment of the  
31 infrastructure of the municipality which shall include improvements or  
32 other economic benefits totalling not less than \$20 million and a  
33 proposed construction schedule for the completion thereof.  
34 (cf: P.L.2002, c.43, s.36)

35

36  
37 8. Section 39 of P.L.2002, c.43 (C.52:27BBB-39) is amended to  
38 read as follows:

39 39. a. There is established for each qualified municipality a regional  
40 impact council to serve for that period during which the municipality  
41 is under rehabilitation and economic recovery. The council shall  
42 consist of: the mayor of the qualified municipality or his or her  
43 designee; the mayor of any municipality in the county in which the  
44 qualified municipality is situated which on or before the [effective date  
45 of P.L.2002, c.43 (C.52:27BBB-1 et al.)] determination by the  
46 commissioner that the municipality fulfills the definition of a qualified



1 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
2 has participated in a regional collaborative established to further the  
3 strategic revitalization of the qualified municipality or the mayor's  
4 designee; the director of the board of chosen freeholders of the county  
5 in which the qualified municipality is situated or his or her designee;  
6 the director of the Office of State Planning or his or her designee; one  
7 representative of the New Jersey Regional Coalition, to be appointed  
8 as provided hereinafter; and four public members, two of whom shall  
9 be appointed by the Governor, one of whom shall be appointed by the  
10 Senate President and one of whom shall be appointed by the Speaker  
11 of the General Assembly. In the event that a regional collaborative has  
12 not been established in the county in which the qualified municipality  
13 is situated, the regional impact council shall include the mayor of each  
14 municipality that borders on the qualified municipality. The four  
15 public members shall include at least one member of the faith-based  
16 community within the region; one member of the business community;  
17 one member of the higher education community; and one member of  
18 the labor community within the region.

19 b. Within 30 days of [the effective date of P.L.2002, c.43  
20 (C.52:27BBB-1 et al.)] a determination by the commissioner that a  
21 municipality fulfills the definition of a qualified municipality pursuant  
22 to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the New Jersey  
23 Regional Coalition shall submit to the Governor three nominees for  
24 consideration, from which the Governor may choose. If the  
25 organization does not submit three nominees for consideration at any  
26 time required, the Governor may appoint a member of the Governor's  
27 choice.

28 c. No member of the council shall receive a salary for service on  
29 the council but shall be reimbursed for reasonable and necessary  
30 expenses associated with serving on the council.

31 d. A majority of the members of the council shall choose one of the  
32 members to serve as the chair. Each member of the council shall serve  
33 for a two-year term and, upon expiration of that term, may be  
34 reappointed. Vacancies among the membership shall be filled in the  
35 same manner in which the original appointment was made.

36 e. The council shall select an appropriate location or locations in  
37 which to meet. The council may adopt its own bylaws and procedures  
38 that are not inconsistent with P.L.2002, c.43 (C.52:27BBB-1 et al.).

39 f. The council shall be eligible for and may employ a consultant  
40 and such staff as it deems necessary, to the extent that funds are made  
41 available pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or other  
42 sources. The council may call upon the commissioner for such  
43 assistance as it deems necessary.

44 g. The council may hold public hearings at the call of the chair and  
45 pursuant to the "Open Public Meetings Act," P.L.1975, c.231  
46 (C.10:4-6 et seq.).  
47 (cf: P.L.2002, c.43, s.39)

1 9. Section 45 of P.L.2002, c.43 (C.52:27BBB-44) is amended to  
2 read as follows:

3 45. a. The board shall prepare and submit a project list, as provided  
4 hereunder. The list shall be consistent with the strategic revitalization  
5 plan and capital improvement and infrastructure plans for the qualified  
6 municipality to the extent practicable and shall include a series of  
7 projects which are prioritized according to their importance in  
8 revitalizing the qualified municipality.

9 Following [the enactment of P.L.2002, c.43 (C.52:27BBB-1 et  
10 al.)] a determination by the commissioner that a municipality fulfills  
11 the definition of a qualified municipality pursuant to section 4 of  
12 P.L.2002, c.43 (C.52:27BBB-4) and the preparation of the plans  
13 mentioned above, the capital and infrastructure needs shall be assessed  
14 and projects shall be anticipated over a three-year period. The bond  
15 moneys authorized to be issued pursuant to section 47 of P.L.2002,  
16 c.43 (C.52:27BBB-46) shall be expended over a three year period.

17 The board shall adopt each project list by a majority of those  
18 members present. In the event that the board selects to rescind a  
19 project from the list, such a vote shall be by a two-thirds vote of the  
20 fully authorized membership thereof.

21 Each project list shall be submitted to the Commission on Capital  
22 Budgeting and Planning, the Chairperson of the Senate Appropriations  
23 Committee and the Chairperson of the Assembly Appropriations  
24 Committee, or their successors, and the Legislative Budget and  
25 Finance Officer, on or before March 1 of each year.

26 b. The President of the Senate and the Speaker of the General  
27 Assembly shall cause the date of submission of the project list to be  
28 entered upon the Senate Journal and the Minutes of the General  
29 Assembly.

30 c. On or before March 1 of each year, the board shall submit a  
31 report of general project categories and proposed projects thereunder  
32 to be financed in the ensuing fiscal year, including therewith a  
33 description of the projects, the county or counties within which they  
34 are to be located, a distinction between State, local and private  
35 projects, and the amount estimated to be expended on each project.  
36 This report shall be known as the "Annual Qualified Municipality  
37 Capital and Economic Recovery Program" for the upcoming fiscal  
38 year. The program shall be consistent with, and reflective of, the goals  
39 and priorities of the Strategic Revitalization Plan, capital improvement  
40 and infrastructure plan, and the program shall include an explanation  
41 which demonstrates how it is consistent with, and reflective of, the  
42 goals and priorities.

43 d. On or before August 1 of each year, the board shall also submit  
44 a "Qualified Municipality Capital and Economic Recovery Financial  
45 Plan" designed to implement the financing of the proposed projects.  
46 The financial plan shall contain an enumeration of the bonds, notes or

1 other obligations of the authority which the authority intends to issue,  
2 including the amounts thereof and the conditions therefor.

3 In addition, the plan shall contain proposed amounts to be  
4 appropriated and expended, as well as amounts for which the authority  
5 anticipates to obligate during the ensuing fiscal year for any future  
6 expenditures.

7 (cf: P.L.2002, c.43, s.45)

8

9 10. Section 54 of P.L.2002, c.43 (C.52:27BBB-53) is amended to  
10 read as follows:

11 54. As used in this section and section 55 of P.L.2002, c.43  
12 (C.52:27BBB-54):

13 a. "Business facility" means any factory, mill, plant, refinery,  
14 warehouse, building, complex of buildings or structural components  
15 of buildings, and all machinery, equipment and personal property  
16 located within a qualified municipality, used in connection with the  
17 operation of the business of a corporation that is subject to the tax  
18 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and  
19 all facility preparation and start-up costs of the taxpayer for the  
20 business facility which it capitalizes for federal income tax purposes.

21 b. "Business relocation or business expansion property" means  
22 improvements to real property and tangible personal property, but only  
23 if that improvement or personal property is constructed or purchased  
24 and placed in service or use by the taxpayer, for use as a component  
25 part of a new or expanded business facility located in a qualified  
26 municipality.

27 (1) Business relocation or business expansion property shall  
28 include only:

29 (a) improvements to real property placed in service or use as a  
30 business facility by the taxpayer on or after the [operative date of  
31 P.L.2002, c.43 (C.52:27BBB-1 et al.) by the taxpayer] notification of  
32 the Governor by the commissioner pursuant to section 4 of P.L.2002,  
33 c.43 (C.52:27BBB-4) that the municipality in which the property is  
34 situated fulfills the definition of a qualified municipality;

35 (b) tangible personal property placed in service or use by the  
36 taxpayer on or after the [operative date of P.L.2002, c.43  
37 (C.52:27BBB-1 et al.)] notification of the Governor by the  
38 commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
39 that the municipality in which the property is situated fulfills the  
40 definition of a qualified municipality, with respect to which  
41 depreciation, or amortization in lieu of depreciation, is allowable in  
42 determining the corporation business tax liability of the taxpayer under  
43 P.L.1945, c.162, and which has a remaining recovery period of three  
44 or more years at the time the property is placed in service or use in a  
45 qualified municipality; or

46 (c) tangible personal property owned and used by the taxpayer at

1 a business location outside a qualified municipality which is moved  
2 into a qualified municipality on or after the [effective date of  
3 P.L.2002, c.43 (C.52:27BBB-1 et al.)] notification of the Governor  
4 by the commissioner pursuant to section 4 of P.L.2002, c.43  
5 (C.52:27BBB-4) that the municipality in which the property is situated  
6 fulfills the definition of a qualified municipality, for use as a  
7 component part of a new or expanded business facility located in the  
8 qualified municipality; provided that the property is depreciable or  
9 amortizable personal property for income tax purposes, and has a  
10 remaining recovery period of three or more years at the time the  
11 property is placed in service or use in a qualified municipality.

12 (2) Property purchased for business relocation or expansion shall  
13 not include:

14 (a) repair costs, including materials used in the repair, unless for  
15 federal income tax purposes, the cost of the repair must be capitalized  
16 and not expensed;

17 (b) airplanes;

18 (c) property which is primarily used outside a qualified  
19 municipality with that use being determined based upon the amount of  
20 time the property is actually used both within and without the qualified  
21 municipality;

22 (d) property which is acquired incident to the purchase of the stock  
23 or assets of the seller.

24 (3) Property shall be deemed to have been purchased prior to a  
25 specified date only if:

26 (a) the physical construction, reconstruction or erection of the  
27 property was begun prior to the specified date, or such property was  
28 constructed, reconstructed, erected or acquired pursuant to a written  
29 contract as existing and binding on the purchase prior to the specified  
30 date; or

31 (b) the machinery or equipment was owned by the taxpayer prior  
32 to the specified date, or was acquired by the taxpayer pursuant to a  
33 binding purchase contract which was in effect prior to the specified  
34 date.

35 c. "Business relocation or expansion" means capital investment in  
36 a new or expanded business facility in a qualified municipality.

37 d. "Controlled group" means one or more chains of corporations  
38 connected through stock ownership with a common parent corporation  
39 if stock possessing at least 50% of the voting power of all classes of  
40 stock of each of the corporations is owned directly or indirectly by one  
41 or more of the corporations; and the common parent owns directly  
42 stock possessing at least 50% of the voting power of all classes of  
43 stock of at least one of the other corporations.

44 e. "Director" means the Director of the Division of Taxation in  
45 the Department of the Treasury.

46 f. "Expanded business facility" means any business facility, other

1 than a new business facility, resulting from acquisition, construction,  
2 reconstruction, installation or erection of improvements or additions  
3 to existing property if such improvements or additions are purchased  
4 on or after the effective date of rehabilitation and economic recovery.

5 g. "Incentive payment" means: the amount of tax owed by a  
6 taxpayer for a privilege period, as computed pursuant to section 5 of  
7 P.L.1945, c.162 (C.54:10A-5), multiplied by a fraction, the numerator  
8 of which is the average value of the taxpayer's business relocation or  
9 business expansion property within a qualified municipality during the  
10 period covered by its report, and the denominator of which is the  
11 average value of all the taxpayer's real and tangible personal property  
12 in New Jersey during such period which result is multiplied by 96  
13 percent; provided, however, that for the purpose of determining  
14 average value, the provisions with respect to depreciation as set forth  
15 in subparagraph (F) of paragraph (2) of subsection (k) of section 4 of  
16 P.L.1945, c.162 (C.54:10A-4) shall be taken into account for arriving  
17 at such value; and provided further that incentive payments shall be  
18 made for a period not to exceed 10 years, commencing on the date of  
19 a taxpayer's first acquisition of business relocation or business  
20 expansion property in the qualified municipality following the  
21 [operative date of P.L.2002, c.43 (C.52:27BBB-1 et al.)] notification  
22 of the Governor by the commissioner pursuant to section 4 of  
23 P.L.2002, c.43 (C.52:27BBB-4) that the municipality in which the  
24 property is situated fulfills the definition of a qualified municipality.

25 h. "New business facility" means a business facility which:

26 (1) is employed by a taxpayer in the conduct of a business which  
27 is or will be taxable under P.L.1945, c.162 (C.54:10A-1 et seq.). A  
28 business facility shall not be considered a new business facility in the  
29 hands of a taxpayer if the taxpayer's only activity with respect to the  
30 facility is to lease it to another person;

31 (2) is purchased by a taxpayer and is placed in service or use on or  
32 after the effective date of rehabilitation and economic recovery;

33 (3) was not purchased by a taxpayer from a related person; and

34 (4) was not in service or use during the 90-day period immediately  
35 prior to transfer of the title to the facility.

36 i. "Partnership" means a syndicate, group, pool, joint venture or  
37 other unincorporated organization through or by means of which any  
38 business, financial operation or venture is carried on, and which is not  
39 a trust or estate, a corporation or a sole proprietorship. The term  
40 "partner" includes a member in such a syndicate, group, pool, joint  
41 venture or organization.

42 j. "Purchase" means, with respect to the determination of whether  
43 business relocation or business expansion property was purchased, any  
44 acquisition of property, including an acquisition pursuant to a lease,  
45 but only if:

46 (1) the property is not acquired from a person whose relationship

1 to the person acquiring it would result in the disallowance of  
2 deductions under section 267 or subsection (b) of section 707 of the  
3 federal Internal Revenue Code of 1986, 26 U.S.C.s.267 or s.707;

4 (2) the property is not acquired by one member of a controlled  
5 group from another member of the same controlled group; and

6 (3) the basis of the property for federal income tax purposes, in the  
7 hands of the person acquiring it, is not determined:

8 (a) in whole or in part by reference to the federal adjusted basis of  
9 such property in the hands of the person from whom it was acquired;

10 or

11 (b) under subsection (e) of section 1014 of the federal Internal  
12 Revenue Code of 1986, 26 U.S.C. s.1014.

13 k. "Related person" means:

14 (1) a corporation, partnership, association or trust controlled by  
15 the taxpayer;

16 (2) an individual, corporation, partnership, association or trust that  
17 is in control of the taxpayer;

18 (3) a corporation, partnership, association or trust controlled by an  
19 individual, corporation, partnership, association or trust that is in  
20 control of the taxpayer; or

21 (4) a member of the same controlled group as the taxpayer.

22 (cf: P.L.2002, c.43, s.54)

23

24 11. Section 60 of P.L.2002, c.43 (C.52:27BBB-58) is amended to  
25 read as follows:

26 60. In order to fulfill its obligation to establish an affirmative action  
27 program for the hiring of minority and female workers employed in the  
28 performance of construction contracts undertaken in connection with  
29 a project undertaken or financed by the authority pursuant to  
30 P.L.2002, c.43 (C.52:27BBB-1 et al.) in a qualified municipality, the  
31 authority shall comply with all requirements for pre-apprenticeship and  
32 apprenticeship applicable to the authority in that qualified municipality  
33 on or after the [effective date of P.L.2002, c.43 (C.52:27BBB-1 et  
34 al.)] determination by the commissioner that the municipality fulfills  
35 the definition of a qualified municipality pursuant to section 4 of  
36 P.L.2002, c.43 (C.52:27BBB-4).

37 (cf: P.L.2002, c.43, s.60)

38

39 12. Section 66 of P.L.2002, c.43 (C.52:27BBB-62) is amended to  
40 read as follows:

41 66. Upon the [enactment of P.L.2002, c.43 (C.52:27BBB-1 et al.)]  
42 date upon which the commissioner determines that the municipality  
43 fulfills the definition of a qualified municipality pursuant to section 4  
44 of P.L.2002, c.43 (C.52:27BBB-4) and during the rehabilitation term,  
45 there shall be a moratorium on regional contribution agreements

1 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) in any qualified  
2 municipality.

3 (cf: P.L.2002, c.43, s.66)

4

5 13. Section 67 of P.L.2002, c.43 (C.52:27BBB-63) is amended to  
6 read as follows:

7 67. a. [Notwithstanding the provisions of any law to the contrary,  
8 in the case of a Type II school district which is contiguous with a  
9 qualified municipality and which has a nine-member board of  
10 education, the Governor shall appoint three additional members to the  
11 board of education upon the enactment of P.L.2002, c.43  
12 (C.52:27BBB-1 et al.). The appointed members shall be voting  
13 members of the board who shall serve at the pleasure of the Governor  
14 for three-year terms and they shall be eligible for reappointment. Two  
15 members shall be residents of the qualified municipality and one  
16 member shall be employed in the qualified municipality.

17 b. At the first organizational meeting conducted pursuant to  
18 N.J.S.18A:10-3 following the establishment of the qualified  
19 municipality, the voting membership of the board of education shall be  
20 comprised of the three members appointed by the Governor pursuant  
21 to subsection a. of this section and any member of the board of  
22 education as comprised prior to the establishment of a qualified  
23 municipality with an unexpired term.

24 c. At the second organizational meeting conducted pursuant to  
25 N.J.S.18A:10-3 following the establishment of the qualified  
26 municipality, the voting membership of the board of education shall be  
27 comprised of the three members appointed by the Governor pursuant  
28 to subsection a. of this section, three members appointed by the mayor  
29 of the qualified municipality with the advice and consent of the city  
30 council and any member of the board of education as comprised prior  
31 to the establishment of a qualified municipality with an unexpired term.  
32 Members appointed by the mayor, with the advice and consent of the  
33 city council shall serve three-year terms and shall be eligible for  
34 reappointment.

35 d. There shall be no school election of school board members  
36 conducted in the first two years following the establishment of a  
37 qualified municipality. In the third year following the establishment of  
38 the qualified municipality, a school election of school board members  
39 shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.)  
40 and three members of the board of education shall be elected by the  
41 voters to serve three-year terms.

42 e. In the fourth year and each subsequent year thereafter, up until  
43 the tenth year following the establishment of the qualified municipality,  
44 members shall be appointed or elected as provided hereinabove upon  
45 the expiration of the members' terms. In the tenth year following the  
46 establishment of the qualified municipality, a school election of school

1 board members shall be conducted pursuant to P.L.1995, c.278  
2 (C.19:60-1 et seq.) and three members of the board of education shall  
3 be elected by the voters to fill the vacancies of the Governor's  
4 appointees whose terms expire. The elected members shall serve  
5 three-year terms. In the eleventh year following the establishment of  
6 the qualified municipality, a school election of school board members  
7 shall be conducted pursuant to P.L.1995, c.278 (C.19:60-1 et seq.)  
8 and three members of the board of education shall be elected by the  
9 voters to fill the vacancies of the mayor's appointees whose terms  
10 expire. The elected members shall serve three-year terms. In the  
11 twelfth year following the establishment of the qualified municipality  
12 and each year thereafter successors to the members whose terms  
13 expire shall be elected for three-year terms as provided by law.

14 f.] The membership of the board of education serving in a school  
15 district which is contiguous with a qualified municipality and which is  
16 subject to level II monitoring or level III monitoring pursuant to  
17 section 14 of P.L.1975, c.212 (C.18A:7A-14) shall be increased as set  
18 forth in this section in order to ensure the State's and the  
19 municipality's ability to participate in the activities of the board.  
20 Board members appointed by the Governor or mayor shall be voting  
21 members of the board and shall have all the rights, powers and  
22 privileges of a member of the board. Members appointed by the  
23 Governor or mayor shall serve at the pleasure of the Governor or  
24 mayor, as appropriate. Any vacancy in the membership appointed by  
25 the Governor or mayor shall be filled in the same manner as the  
26 original appointment, but for the unexpired term only. The first  
27 members appointed by the Governor shall serve for a term  
28 commencing upon appointment and qualification and ending three  
29 years from the date that the number of members of the board returns  
30 to the number on the board prior to the establishment of the qualified  
31 municipality. Members appointed thereafter shall serve for a term of  
32 three years as provided in this section.

33 In order to ensure substantial local representation on any such  
34 board, in no case shall the number of the positions appointed by the  
35 mayor and elected by the voters, combined, constitute less than a  
36 majority of the total positions on the board. This section shall not  
37 apply to State-operated school districts established pursuant to  
38 P.L.1987, c.399 (C.18A:7A-34 et seq.).

39 b. The membership of a type I board of education in a qualified  
40 municipality consisting of five members shall be temporarily increased  
41 to include two additional members to be appointed by the Governor  
42 upon receipt of notification by the Commissioner of Education  
43 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of  
44 three years, as set forth in subsection a. of this section. The first two  
45 positions on the board, the terms of which expire after the designation  
46 of a qualified municipality, shall be abolished upon expiration of their



1 terms and shall not be filled by mayoral appointments so that the total  
2 membership of the board returns to five members. The Governor shall  
3 continue to make appointments to fill the positions held by the  
4 gubernatorial appointees, when their terms expire or when a vacancy  
5 occurs, until after the tenth year following the designation of the  
6 qualified municipality. Beginning in the first year following the tenth  
7 year after the designation of the qualified municipality, vacancies  
8 resulting from the expiration of a term, or for any other reason, in any  
9 position on the board filled by gubernatorial appointment shall be filled  
10 in the same manner as provided before the designation of the qualified  
11 municipality.

12 c. The membership of a type I board of education in a qualified  
13 municipality consisting of seven members shall be temporarily  
14 increased to include three additional members to be appointed by the  
15 Governor upon receipt of notification by the Commissioner of  
16 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
17 for a term of three years, as set forth in subsection a. of this section.  
18 The first three positions on the board, the terms of which expire after  
19 the designation of a qualified municipality, shall be abolished upon  
20 expiration of their terms and shall not be filled by mayoral  
21 appointments so that the total membership of the board returns to  
22 seven members. The Governor shall continue to make appointments  
23 to fill the positions held by gubernatorial appointees, when their terms  
24 expire or when a vacancy occurs, until after the tenth year following  
25 the designation of the qualified municipality. Beginning in the first  
26 year following the tenth year after the designation of the qualified  
27 municipality, vacancies resulting from the expiration of a term, or for  
28 any other reason, in any position on the board filled by gubernatorial  
29 appointment shall be filled in the same manner as provided before the  
30 designation of the qualified municipality.

31 d. The membership of a type I board of education in a qualified  
32 municipality consisting of nine members shall be temporarily increased  
33 to include three additional members to be appointed by the Governor  
34 upon receipt of notification by the Commissioner of Education  
35 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of  
36 three years as set forth in subsection a. of this section. The first three  
37 positions on the board, the terms of which expire after the designation  
38 of a qualified municipality, shall be abolished upon expiration of their  
39 terms and shall not be filled by mayoral appointments so that the total  
40 membership of the board returns to nine members. The Governor shall  
41 continue to make appointments to fill the positions held by  
42 gubernatorial appointees, when their terms expire or when a vacancy  
43 occurs, until after the tenth year following the designation of the  
44 qualified municipality. Beginning in the first year following the tenth  
45 year after the designation of the qualified municipality, vacancies  
46 resulting from the expiration of a term, or for any other reason, in any

1 position on the board filled by gubernatorial appointment shall be filled  
2 in the same manner as provided before the designation of the qualified  
3 municipality.

4 e. The membership of a type II board of education in a qualified  
5 municipality consisting of three members shall be temporarily  
6 increased to include one additional member to be appointed by the  
7 Governor upon receipt of notification by the Commissioner of  
8 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
9 for a term of three years as set forth in subsection a. of this section.  
10 The first position on the board, the term of which expires after the  
11 designation of a qualified municipality, shall be abolished upon  
12 expiration of its term and shall not be filled in the same manner as  
13 provided before the designation of the qualified municipality so that  
14 the total membership of the board returns to three members. The  
15 Governor shall continue to make appointments to fill the position held  
16 by a gubernatorial appointee when the term expires or when a vacancy  
17 occurs, until after the tenth year following the designation of the  
18 qualified municipality. Beginning in the first year following the tenth  
19 year after the designation of the qualified municipality, a vacancy  
20 resulting from the expiration of the term in the position on the board  
21 filled by gubernatorial appointment shall be filled in the same manner  
22 as provided before the designation of the qualified municipality.

23 The second position on the board, the term of which expires after  
24 the designation of a qualified municipality, shall be abolished upon  
25 expiration of its term and shall not be filled in the same manner as  
26 provided before the designation of the qualified municipality. Instead,  
27 the vacancy shall be filled by a mayoral appointment as described in  
28 subsection a. of this section so that the total membership of the board  
29 remains at three. Mayoral appointees shall serve for a term of three  
30 years. The mayor shall continue to make appointments to fill the  
31 position held by a mayoral appointee when the term expires or when  
32 a vacancy occurs, until after the tenth year following the designation  
33 of the qualified municipality. Beginning in the first year following the  
34 tenth year after the designation of the qualified municipality, a vacancy  
35 resulting from the expiration of the term in the position on the board  
36 filled by mayoral appointment shall be filled in the same manner as  
37 provided before the designation of the qualified municipality.

38 f. The membership of a type II board of education in a qualified  
39 municipality consisting of five members shall be temporarily increased  
40 to include two additional members to be appointed by the Governor  
41 upon receipt of notification by the Commissioner of Education  
42 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of  
43 three years as set forth in subsection a. of this section. The first two  
44 positions on the board, the terms of which expire after the designation  
45 of a qualified municipality, shall be abolished upon expiration of their  
46 terms and shall not be filled in the same manner as provided before the

1 designation of the qualified municipality so that the total membership  
2 of the board returns to five members. The Governor shall continue to  
3 make appointments to fill the positions held by gubernatorial  
4 appointees when the terms expire or when a vacancy occurs, until after  
5 the tenth year following the designation of the qualified municipality.  
6 Beginning in the first year following the tenth year after the  
7 designation of the qualified municipality, vacancies resulting from the  
8 expiration of a term in any position on the board filled by gubernatorial  
9 appointment shall be filled in the same manner as provided before the  
10 designation of the qualified municipality.

11 The third position on the board, the term of which expires after the  
12 designation of a qualified municipality, shall be abolished upon  
13 expiration of its term and shall not be filled in the same manner as  
14 provided before the designation of the qualified municipality. Instead,  
15 the vacancy shall be filled by a mayoral appointment as described in  
16 subsection a. of this section so that the total membership of the board  
17 remains at five. Mayoral appointees shall serve for a term of three  
18 years. The mayor shall continue to make appointments to fill the  
19 position held by a mayoral appointee when the term expires or when  
20 a vacancy occurs, until after the tenth year following the designation  
21 of the qualified municipality. Beginning in the first year following the  
22 tenth year after the designation of the qualified municipality, a vacancy  
23 resulting from the expiration of the term in the position on the board  
24 filled by mayoral appointment shall be filled in the same manner as  
25 provided before the designation of the qualified municipality.

26 g. The membership of a type II board of education in a qualified  
27 municipality consisting of seven members shall be temporarily  
28 increased to include three additional members to be appointed by the  
29 Governor upon receipt of notification by the Commissioner of  
30 Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4)  
31 for a term of three years as set forth in subsection a. of this section.  
32 The first three positions on the board, the terms of which expire after  
33 the designation of a qualified municipality, shall be abolished upon  
34 expiration of their terms and shall not be filled in the same manner as  
35 provided before the designation of the qualified municipality so that  
36 the total membership of the board returns to seven members. The  
37 Governor shall continue to make appointments to fill the positions held  
38 by gubernatorial appointees when the terms expire or when a vacancy  
39 occurs, until after the tenth year following the designation of the  
40 qualified municipality. Beginning in the first year following the tenth  
41 year after the designation of the qualified municipality, vacancies  
42 resulting from the expiration of a term in any position on the board  
43 filled by gubernatorial appointment shall be filled in the same manner  
44 as provided before the designation of the qualified municipality.

45 The fourth and fifth positions on the board, the terms of which  
46 expire after the designation of a qualified municipality, shall be

1 abolished upon expiration of their terms and shall not be filled in the  
2 same manner as provided before the designation of the qualified  
3 municipality. Instead, the vacancies shall be filled by mayoral  
4 appointments as described in subsection a. of this section so that the  
5 total membership of the board remains at seven. Mayoral appointees  
6 shall serve for a term of three years. The mayor shall continue to  
7 make appointments to fill the positions held by mayoral appointees  
8 when the terms expire or when a vacancy occurs, until after the tenth  
9 year following the designation of the qualified municipality. Beginning  
10 in the first year following the tenth year after the designation of the  
11 qualified municipality, vacancies resulting from the expiration of a  
12 term in any position on the board filled by mayoral appointment shall  
13 be filled in the same manner as provided before the designation of the  
14 qualified municipality.

15 h. The membership of a type II board of education in a qualified  
16 municipality consisting of nine members shall be temporarily increased  
17 to include three additional members to be appointed by the Governor  
18 upon receipt of notification by the Commissioner of Education  
19 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of  
20 three years as set forth in subsection a. of this section. The first three  
21 positions on the board, the terms of which expire after the designation  
22 of a qualified municipality, shall be abolished upon expiration of their  
23 terms and shall not be filled in the same manner as provided before the  
24 designation of the qualified municipality so that the total membership  
25 of the board returns to nine members. The Governor shall continue to  
26 make appointments to fill the positions held by gubernatorial  
27 appointees when the terms expire or when a vacancy occurs, until after  
28 the tenth year following the designation of the qualified municipality.  
29 Beginning in the first year following the tenth year after the  
30 designation of the qualified municipality, vacancies resulting from the  
31 expiration of a term in any position on the board filled by gubernatorial  
32 appointment shall be filled in the same manner as provided before the  
33 designation of the qualified municipality.

34 The fourth, fifth and sixth positions on the board, the terms of  
35 which expire after the designation of a qualified municipality, shall be  
36 abolished upon expiration of their terms and shall not be filled in the  
37 same manner as provided before the designation of the qualified  
38 municipality. Instead, the vacancies shall be filled by mayoral  
39 appointment as described in subsection a. of this section so that the  
40 total membership of the board remains at nine. Mayoral appointees  
41 shall serve for a term of three years. The mayor shall continue to  
42 make appointments to fill the positions held by mayoral appointees  
43 when the terms expire or when a vacancy occurs, until after the tenth  
44 year following the designation of the qualified municipality. Beginning  
45 in the first year following the tenth year after the designation of the  
46 qualified municipality, vacancies resulting from the expiration of a

1 term in any position on the board filled by mayoral appointment shall  
2 be filled in the same manner as provided before the designation of the  
3 qualified municipality.

4 i. At all times the board of education and its membership shall  
5 comply with the requirements of the "Open Public Meetings Act,"  
6 P.L.1975, c.231 (C.10:4-6 et seq.) and the "School Ethics Act,"  
7 P.L.1991, c.393 (C.18A:12-21 et seq.), and meet the requirements and  
8 qualifications for board membership established pursuant to chapter 12  
9 of Title 18A of the New Jersey Statutes.

10 (cf: P.L.2002, c.43, s.67)

11  
12 14. Section 68 of P.L.2002, c.43 (C.52:27BBB-64) is amended to  
13 read as follows:

14 68. a. Notwithstanding the provisions of Title 18A or any other law,  
15 rule, or regulation to the contrary, the minutes of every meeting of the  
16 board of education of a school district contiguous with a qualified  
17 municipality [and constituted pursuant to N.J.S.18A:9-3] subject to  
18 level II or level III monitoring and identified by the commissioner  
19 pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) shall be  
20 subject to the veto provisions set forth in subsection b. of this section.  
21 This section shall not apply to State-operated school districts  
22 established pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.).

23 b. A true copy of the minutes of every meeting of a board of  
24 education described in subsection a. of this section shall be forthwith  
25 delivered by and under the certification of the secretary thereof to the  
26 Governor. No action taken at that meeting of the board of education  
27 shall have force or effect until 15 days after a copy of the minutes shall  
28 have been so delivered unless during that 15-day period the Governor  
29 shall approve those minutes, in which case the action shall become  
30 effective upon that approval. If, in the 15-day period, the Governor  
31 returns the copy of those minutes with a veto of any action taken by  
32 the board of education or any member thereof at that meeting, the  
33 action shall be null and void and of no effect.

34 (cf: P.L.2002, c.43, s.68)

35  
36 15. Section 8 of P.L.1983, c.530 (C.55:14K-8) is amended to read  
37 as follows:

38 8. a. Admission to housing projects constructed, improved or  
39 rehabilitated under this act shall be limited to families whose gross  
40 aggregate family income at the time of admission does not exceed six  
41 times the annual rental or carrying charges, including the value or cost  
42 to them of heat, light, water, sewerage, parking facilities and cooking  
43 fuel, of the dwellings that may be furnished to such families, or seven  
44 times those charges if there are three or more dependents. There may  
45 be included in the carrying charges to any family for residence in any  
46 mutual housing project constructed, improved or rehabilitated with a

1 loan from the agency an amount equal to 6% of the original cash  
2 investment of the family in the mutual housing project and, to the  
3 extent authorized by the agency where not included in the carrying  
4 charges, the value or cost of repainting the apartment and replacing  
5 any fixtures or appliances. Notwithstanding the provisions of this  
6 section, no family or individual shall be eligible for admission to any  
7 housing project constructed, improved or rehabilitated with a loan  
8 from the agency, whose gross aggregate family income exceeds such  
9 amount as shall be established from time to time by the agency, by  
10 rules or regulations promulgated hereunder; except that with respect  
11 to any project financed by an agency loan insured or guaranteed by the  
12 United States of America or any agency or instrumentality thereof, the  
13 agency may adopt the admission standards for such projects then  
14 currently utilized or required by the guarantor or insurer.

15 The provisions of this subsection shall not apply to any housing  
16 project situated in a qualified municipality that is constructed,  
17 improved or rehabilitated on or after the [effective date of P.L.2002,  
18 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner  
19 determines that the municipality fulfills the definition of a qualified  
20 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

21 b. The agency shall by rules and regulations provide for the  
22 periodic examination of the income of any person or family residing in  
23 any housing project constructed, improved or rehabilitated with a loan  
24 from the agency. If the gross aggregate family income of a family  
25 residing in a housing project increases and the ratio to the current  
26 rental or carrying charges of the dwelling unit becomes greater than  
27 the ratio prescribed for admission in subsection a. of this section but  
28 is not more than 25% above the family income so prescribed for  
29 admission to the project, the owner or managing agent of the housing  
30 project shall permit the family to continue to occupy the unit. The  
31 agency or (with the approval of the agency) the housing sponsor of  
32 any housing project constructed, improved or rehabilitated with a loan  
33 from the agency, may terminate the tenancy or interest of any family  
34 residing in the housing project whose gross aggregate family income  
35 exceeds by 25% or more the amount prescribed herein and which  
36 continues to do so for a period of six months or more; but no tenancy  
37 or interest of any such family in any such housing project shall be  
38 terminated except upon reasonable notice and opportunity to obtain  
39 suitable alternate housing, in accordance with rules and regulations of  
40 the agency; and any such family, with the approval of the agency, may  
41 be permitted to continue to occupy the unit, subject to payment of a  
42 rent or carrying charge surcharge to the housing sponsor in  
43 accordance with a schedule of surcharges fixed by the agency. The  
44 housing sponsor shall pay the surcharge to the municipality granting  
45 tax exemption, but only up to an amount that together with payments  
46 made to the municipality in lieu of taxes and for any land taxes equals

1 25% of the total rents or carrying charges of the housing project for  
2 the current and any prior years that the project has been in operation.

3 The provisions of this subsection shall not apply to any housing  
4 project situated in a qualified municipality that is constructed,  
5 improved or rehabilitated on or after the [effective date of P.L.2002,  
6 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner  
7 determines that the municipality fulfills the definition of a qualified  
8 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

9 c. For projects on which the agency has made a loan and financed  
10 the loan with the proceeds of bonds issued prior to January 1, 1973,  
11 any remainder of the surcharge, or the total surcharge if tax exemption  
12 has not been granted, shall be paid into the housing finance fund  
13 securing the bonds issued to finance the project for the use of the  
14 agency; for projects financed on or after January 1, 1973, any  
15 remainder of the surcharge, or the total surcharge if tax exemption has  
16 not been granted, shall be paid to the agency.

17 d. Any family residing in a mutual housing project required to  
18 remove from the project because of excessive income as herein  
19 provided shall be discharged from liability on any note, bond or other  
20 evidence of indebtedness relating thereto and shall be reimbursed, in  
21 accordance with the rules of the agency, for all sums paid by the family  
22 to the housing sponsor on account of the purchase of stock or  
23 debentures as a condition of occupancy or on account of the  
24 acquisition of title for such purpose.

25 The provisions of this subsection shall not apply to any housing  
26 project situated in a qualified municipality that is constructed,  
27 improved or rehabilitated on or after the [effective date of P.L.2002,  
28 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner  
29 determines that the municipality fulfills the definition of a qualified  
30 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).

31 e. The agency shall establish admission rules and regulations for  
32 any housing project financed in whole or in part by loans authorized  
33 hereunder which shall provide priority categories for person displaced  
34 by urban renewal projects, highway programs or other public works,  
35 persons living in substandard housing, persons and families who, by  
36 reason of family income, family size or disabilities, have special needs,  
37 elderly persons and families living under conditions violative of  
38 minimum health and safety standards.

39 The provisions of this subsection shall not apply to any housing  
40 project situated in a qualified municipality that is constructed,  
41 improved or rehabilitated on or after the [effective date of P.L.2002,  
42 c.43 (C.52:27BBB-1 et al.)] date upon which the commissioner  
43 determines that the municipality fulfills the definition of a qualified  
44 municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4).  
45 (cf: P.L.2002, c.43, s.65)

1       16. (New section) Upon receipt of notification by the  
2 commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-  
3 4), the State Treasurer shall prepare an economic stimulus package  
4 designed to foster the revitalization of the qualified municipality and  
5 submit those recommendations, along with amounts necessary to  
6 achieve those revitalization objectives to the Governor, each member  
7 of the Senate and General Assembly, and each member of the State  
8 Economic Recovery Board for the qualified municipality established  
9 pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36), within 60  
10 days following the appointment of the last member. The economic  
11 stimulus package for the first municipality designated following the  
12 effective date of P.L.2002, c.43 (C.52:27BBB-1 et seq.) shall consist  
13 of those financing arrangements set forth in Article 5 of P.L.2002, c.43  
14 (C.52:27BBB-44 through 52).

15

16       17. This act shall take effect immediately and shall be retroactive  
17 to June 30, 2002.

18

19

20

#### STATEMENT

21

22       This bill amends and clarifies the "Municipal Rehabilitation and  
23 Economic Recovery Act," P.L.2002, c.43, in order to ensure an  
24 accurate expression of the legislative intent in enacting that law. That  
25 act is now the subject of litigation contending that it is improper.  
26 Although the Legislature contends that a lower court determination  
27 regarding two sections of that enactment misconstrued the legislative  
28 intent of P.L.2002, c.43, it is the Legislature's opinion that given the  
29 urgent nature of the problems the act seeks to address, it is preferable  
30 to clarify some of the issues raised through legislative enactment rather  
31 than through time-consuming, costly litigation. At a time when public  
32 resources are scarce and the underlying conditions that the act  
33 confronts require coordinated, targeted and early solutions, it is  
34 important that public dollars and resources be spent on rehabilitation  
35 and recovery.

36       Ofttimes, the fiscal stress, economic impoverishment, crime, and  
37 financial mismanagement which characterizes certain municipalities in  
38 this State also afflict the school district which serves the same  
39 population, but not necessarily. Certainly there exists ample  
40 justification for a multipronged approach to urban revitalization which  
41 recognizes the importance of addressing problems which exist in the  
42 school district simultaneously with those on the municipal side of  
43 government operation. Given the magnitude of the State's investment  
44 in these municipalities and the failure of previous legislative measures  
45 to resolve the problems of municipalities with these characteristics, the  
46 Legislature has developed a response that seeks to improve



1 governance at both the municipal and school district level, at a time  
2 when substantial resources will be directed to the community.

3 As a result, the Legislature has imposed certain criteria limiting the  
4 act's application to municipalities that have been or may be subject to  
5 oversight by both a financial review board and the local finance board  
6 and which receive at least 55 percent of their budgets from State  
7 appropriations, now or in the future. These qualified municipalities  
8 are characterized by recurring fiscal distress, difficulties in managing  
9 public dollars and resources, and chronic reliance on State revenues.

10 P.L.2002, c.43 applied to any school district contiguous with a  
11 qualified municipality. Instead, this bill provides for a parallel process  
12 of designating a school district. The pertinent provisions of the bill  
13 address only districts that are located in a qualified municipality and  
14 that are subject to Level II or Level III monitoring pursuant to  
15 N.J.S.A.18A:7A-14. Thus, only those schools that are not making  
16 sufficient progress to meet the thoroughness and efficiency standards  
17 due to problems in the district's operation are subject to these  
18 provisions. These requirements ensure that the State oversight of  
19 school districts, as contemplated by the act, will be appropriately  
20 applied only in districts that are subject to State monitoring.

21 At present, only the City of Camden and its school district meet the  
22 criteria specified in the act. It is not, however, the Legislature's intent  
23 to exclude other municipalities whose financial circumstances and  
24 governance challenges, as defined under the act, may require similar  
25 responses in the future.

26 Among the bill's provisions are language amendments clarifying and  
27 reaffirming that other similarly situated municipalities may meet the  
28 criteria of a qualified municipality and specifying when and how the  
29 act becomes effective in other municipalities. The bill also amends  
30 those provisions relating to the expansion and composition of boards  
31 of education in qualified municipalities (subject to Level II and III  
32 monitoring) so that they apply to the variety of board types found  
33 throughout the State through the addition of language providing a  
34 "composition" formula for boards composed of 3, 5 and 7 members.

35 Finally, the bill establishes a process for determining appropriations  
36 and allocations of monies to municipalities other than Camden that  
37 meet the definition of a qualified municipality subsequent to the  
38 passage of the act. This provision requires the State Treasurer to  
39 prepare an economic stimulus package that will be carefully tailored  
40 to meet the needs of any subsequently qualifying municipality and will  
41 foster its revitalization. The Treasurer's comprehensive plan is then  
42 required to be submitted to the State Economic Recovery Board for  
43 that municipality within 60 days following the appointment of the last  
44 member. As a result, any subsequently qualifying municipality will  
45 find itself benefiting from an immediate economic stimulus plan  
46 developed by the State Treasurer.

1       The bill would also add two nonvoting ex officio legislative  
2 members to the State Economic Recovery Board to be appointed by  
3 the Governor, one of whom upon the recommendation of the Senate  
4 President and the other upon the recommendation of the Speaker of  
5 the General Assembly. These members are nonvoting, advisory  
6 members, appointed solely for the purpose of developing and  
7 facilitating legislation to assist the board in fulfilling its statutory  
8 mission, and may not exercise any of the executive powers delegated  
9 to the board.

10       In conclusion, these amendments detail a variety of appropriate  
11 steps necessary to ensure coordinated and effective governance and  
12 revitalization at the municipal level while ensuring, if necessary,  
13 effective governance at the school district level. These complementary  
14 goals protect the municipal tax base, assist the district in improving the  
15 quality of education and assist revitalization and redevelopment by  
16 improving the municipal infrastructure, including the educational  
17 opportunities offered to its citizens.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2772**

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 19, 2002

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 2772.

This bill amends and clarifies the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43, in order to ensure an accurate expression of the legislative intent in enacting that law. That act is now the subject of litigation contending that it is improper. Although the Legislature contends that a lower court determination regarding two sections of that enactment misconstrued the legislative intent of P.L.2002, c.43, it is the Legislature's opinion that given the urgent nature of the problems the act seeks to address, it is preferable to clarify some of the issues raised through legislative enactment rather than through time-consuming, costly litigation. At a time when public resources are scarce and the underlying conditions that the act confronts require coordinated, targeted and early solutions, it is important that public dollars and resources be spent on rehabilitation and recovery.

Ofttimes, the fiscal stress, economic impoverishment, crime, and financial mismanagement which characterizes certain municipalities in this State also afflict the school district which serves the same population, but not necessarily. Certainly there exists ample justification for a multipronged approach to urban revitalization which recognizes the importance of addressing problems which exist in the school district simultaneously with those on the municipal side of government operation. Given the magnitude of the State's investment in these municipalities and the failure of previous legislative measures to resolve the problems of municipalities with these characteristics, the Legislature has developed a response that seeks to improve governance at both the municipal and school district level, at a time when substantial resources will be directed to the community.

As a result, the Legislature has imposed certain criteria limiting the act's application to municipalities that have been or may be subject to oversight by both a financial review board and the local finance board and which receive at least 55 percent of their budgets from State appropriations, now or in the future. These qualified municipalities are characterized by recurring fiscal distress, difficulties in managing

public dollars and resources, and chronic reliance on State revenues.

P.L.2002, c.43 applied to any school district contiguous with a qualified municipality. Instead, this bill provides for a parallel process of designating a school district. The pertinent provisions of the bill address only districts that are located in a qualified municipality and that are subject to Level II or Level III monitoring pursuant to N.J.S.A.18A:7A-14. Thus, only those schools that are not making sufficient progress to meet the thoroughness and efficiency standards due to problems in the district's operation are subject to these provisions. These requirements ensure that the State oversight of school districts, as contemplated by the act, will be appropriately applied only in districts that are subject to State monitoring.

At present, only the City of Camden and its school district meet the criteria specified in the act. It is not, however, the Legislature's intent to exclude other municipalities whose financial circumstances and governance challenges, as defined under the act, may require similar responses in the future.

Among the bill's provisions are language amendments clarifying and reaffirming that other similarly situated municipalities may meet the criteria of a qualified municipality and specifying when and how the act becomes effective in other municipalities. The bill also amends those provisions relating to the expansion and composition of boards of education in qualified municipalities (subject to Level II and III monitoring) so that they apply to the variety of board types found throughout the State through the addition of language providing a "composition" formula for boards composed of 3, 5 and 7 members.

Finally, the bill establishes a process for determining appropriations and allocations of monies to municipalities other than Camden that meet the definition of a qualified municipality subsequent to the passage of the act. This provision requires the State Treasurer to prepare an economic stimulus package that will be carefully tailored to meet the needs of any subsequently qualifying municipality and will foster its revitalization. The Treasurer's comprehensive plan is then required to be submitted to the State Economic Recovery Board for that municipality within 60 days following the appointment of the last member. As a result, any subsequently qualifying municipality will find itself benefiting from an immediate economic stimulus plan developed by the State Treasurer.

The bill would also add two nonvoting ex officio legislative members to the State Economic Recovery Board to be appointed by the Governor, one of whom upon the recommendation of the Senate President and the other upon the recommendation of the Speaker of the General Assembly.

In conclusion, these amendments detail a variety of appropriate steps necessary to ensure coordinated and effective governance and revitalization at the municipal level while ensuring, if necessary, effective governance at the school district level. These complementary goals protect the municipal tax base, assist the district in improving the

quality of education and assist revitalization and redevelopment by improving the municipal infrastructure, including the educational opportunities offered to its citizens.