27:1B-22.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2006 **CHAPTER:** 3

NJSA: 27:1B-22.2 (Changes various provisions of “New Jersey Transportation Trust Fund Authority Act”)

BILL NO: A2813 (Substituted for S1470)

SPONSOR(S) Wisniewski and others

DATE INTRODUCED: March 6, 2006

COMMITTEE: **ASSEMBLY:** Transportation and Public Works; Appropriations

SENATE:

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 16, 2006

SENATE: March 20, 2006

DATE OF APPROVAL: March 23, 2006

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (2nd reprint enacted)

A2813

SPONSOR’S STATEMENT: (Begins on page 19 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes 3-9-2006 (Transport.)
3-13-2006 (App)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

S1470

SPONSOR’S STATEMENT: (Begins on page 13 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: No

SENATE: Yes

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Corzine signs $8B transit measure," 3-24-2006 Star Ledger, p. 26
"Corzine's bailout of transportation fund becomes law," 3-24-2006 Philadelphia Inquirer, p. B06
"Governor approves borrowing to save transit fund," 3-24-2006 The Record, p. A03

LAW

§6 - .
C.27:1B-22.2
§9 - C.27:1B-22.3
§10 - Repealer

[CORRECTED COPY]
P.L. 2006, CHAPTER 3, ***approved March 23, 2006***
Assembly, No. 2813 ***(Second Reprint)***

AN ACT concerning the New Jersey Transportation Trust Fund Authority and amending and supplementing P.L.1984, c.73 and amending P.L.1987, c.460.

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

1. Section 9 of P.L.1984, c.73 (C.27:1B-9) is amended to read as follows:

9. a. The authority shall have the power and is hereby authorized after November 15, 1984 and from time to time thereafter to issue its bonds, notes or other obligations in principal amounts as in the opinion of the authority shall be necessary to provide for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes, obligations or interest to be funded or refunded have or have not become due; and to provide for the security thereof and for the establishment or increase of reserves to secure or to pay the bonds, notes or other obligations or interest thereon and all other reserves and all costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers; and in addition to its bonds, notes and other obligations, the authority shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds or notes. No resolution or other action of the authority providing for the issuance of bonds, refunding bonds, notes, or other obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the Governor and the State Treasurer.

b. Except as may be otherwise expressly provided in the act or by the authority, every issue of bonds or notes shall be general obligations payable out of any revenues or funds of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. The authority may provide the security and payment provisions for its bonds or notes as it may determine, including (without limiting the generality of the foregoing) bonds or notes as to which the principal and interest are payable from and secured by all or any portion of the of

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly ATR committee amendments adopted March 9, 2006.
[2]Assembly AAP committee amendments adopted March 13, 2006.

payments to the authority, and other moneys or funds as the authority shall determine. In addition, the authority may, in anticipation of the issuance of the bonds or the receipt of appropriations, grants, reimbursements or other funds, including without limitation grants from the federal government for federal aid highways or public transportation systems, issue notes, the principal of or interest on which, or both, shall be payable out of the proceeds of notes, bonds or other obligations of the authority or appropriations, grants, reimbursements or other funds or revenues of the authority. The authority may also enter into bank loan agreements, lines of credit and other security agreements as authorized pursuant to subsection h. of section 6 of P.L.1984, c.73 (C.27:1B-6) and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the authority is authorized to pay by this act and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the revenues of and payments to the authority or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

c. Whether or not the bonds and notes are of the form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of said Title 12A.

d. Bonds or notes of the authority shall be authorized by a resolution or resolutions of the authority and may be issued in one or more series and shall bear the date, or dates, mature at the time or times, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources, in the medium of payment, at the place or places within or without the State, and be subject to the terms of redemption (with or without premium) as the resolution or resolutions may provide. Bonds or notes may be further secured by a trust indenture between the authority and a corporate trustee within or without the State. All other obligations of the authority shall be authorized by resolution containing terms and conditions as the authority shall determine.

e. Bonds, notes or other obligations of the authority may be sold at public or private sale at a price or prices and in a manner as the authority shall determine, either on a negotiated or on a competitive basis. Every bond, or refunding bond, issued on or after ⟦the effective date of P.L.1995, c.108 (C.27:1B-25.1 et al.)⟧ <u>the effective date of P.L.   , c.   (C.   ) (pending before the Legislature as this bill)</u> shall mature and be paid no later than ⟦21⟧ <u>31</u> years from the date of the issuance of that bond or refunding bond.

f. Bonds or notes may be issued and other obligations incurred under the provisions of the act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by subsection a. of this section, and without any other proceedings or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by the act.

g. Bonds, notes and other obligations of the authority issued or incurred under the provisions of the act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision or be or constitute a pledge of the faith and credit of the State or of any political subdivision but all bonds, notes and obligations, unless funded or refunded by bonds, notes or other obligations of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in the act. Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from revenues or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on the bonds, notes or other obligations. For the purposes of this subsection, political subdivision does not include the authority.

h. All expenses incurred in carrying out the provisions of the act shall be payable solely from the revenues or funds provided or to be provided under or pursuant to the provisions of the act and nothing in the act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

i. The authority shall minimize debt incurrence by first relying on appropriations and other revenues available to the authority before incurring debt secured by State revenues to meet its statutory purposes. Commencing [on the 90th day following the date of enactment of this 1995 amendatory and supplementary act] with the fiscal year beginning July 1, 1995 and ending within the fiscal year beginning July 1, 2005, the authority shall not incur debt in any fiscal year in excess of $650,000,000, except that if that permitted amount of debt, or any portion thereof, is not incurred in a fiscal year it may be incurred in a subsequent fiscal year. Commencing with the fiscal year beginning July 1, 2006 and ending with the fiscal year beginning on July 1, 2010, the authority shall not incur debt for any fiscal year in excess of $1,600,000,000, reduced in each of those fiscal years by the amount by which the appropriation of State funds to the Transportation Trust Fund Account for that fiscal year shall exceed $895,000,000; provided, however, that if a portion of that permitted amount of debt, less any reduction as provided above, is not incurred in a fiscal year, an amount not greater than the unused portion may be incurred in a subsequent fiscal year in addition to the amount otherwise permitted subject to the approval of the Joint Budget Oversight Committee. Debt permitted for the fiscal year beginning July 1, 2006 may be incurred prior to July 1, 2006. Any increase in this limitation shall only occur if so provided for by law. In computing the foregoing limitation as to the amount of debt the authority may incur, the authority may exclude any bonds, notes or other obligations, including subordinated obligations of the authority, issued for refunding purposes.

j. Upon the decision by the authority to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the authority shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the authority relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the authority to issue and sell the refunding bonds at public or private sale and the reasons therefor.

k. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection j. of this section. The committee shall approve or disapprove the sale of refunding bonds within 10 business days after physical receipt of the report. The committee shall notify the authority in writing of the approval or disapproval as expeditiously as possible.

l. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection k. of this section.

m. Within 30 days after the sale of the refunding bonds, the authority shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, and the actual amount of debt service savings to be realized as a result of the sale of refunding bonds.

n. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the authority or to the Legislature, or both, as it deems appropriate.

o. No refunding bonds shall be issued unless the authority shall first determine that the present value of the aggregate principal of and interest on the refunding bonds is less than the present value of the aggregate principal of and interest on the outstanding bonds to be refinanced, except that, for the purposes of this limitation,

<u>present value shall be computed using a discount rate equal to the yield of those refunding bonds, and yield shall be computed using an actuarial method based upon a 360-day year with semiannual compounding and upon the prices paid to the authority by the initial purchasers of those refunding bonds.</u>

(cf: P.L.2001, c.258, s.1)

2. Section 21 of P.L.1984, c. 73 (C.27:1B-21) is amended to read as follows:

21. a. There is hereby established a separate fund entitled "Special Transportation Fund." This fund shall be maintained by the State Treasurer and may be held in depositories as may be selected by the treasurer and invested and reinvested as other funds in the custody of the treasurer, in the manner provided by law. The commissioner may from time to time (but not more frequently than monthly) certify to the authority an amount necessary to fund payments made, or anticipated to be made by or on behalf of the department, from appropriations established for or made to the department from revenues or other funds of the authority. The commissioner's certification shall be deemed conclusive for purposes of the act. The authority shall, within 15 days of receipt of the certificate, transfer from available funds of the authority to the treasurer for deposit in the Special Transportation Fund the amount certified by the commissioner, provided that all funds transferred shall only be expended by the department by project pursuant to appropriations made from time to time by the Legislature for the purposes of the act.

b. The department shall not expend any money except as appropriated by law. Commencing with appropriations for the fiscal years beginning on July 1, 1988, the department shall not expend any funds except as are appropriated by specific projects identified by a description of the projects, the county or counties within which they are located, and amounts to be expended on each project, in the annual appropriations act.

c. No funds appropriated, authorized or expended pursuant to this act shall be used to finance the resurfacing of highways by department personnel, where that resurfacing would require the use of more than 100,000 tons of bituminous concrete for that purpose in any calendar year, except that the commissioner may waive this provision when he determines the existence of emergency conditions requiring the use of department personnel for the resurfacing of highways, after the department has effectively reached the 100,000 ton limit.

d. In order to provide the department with flexibility in administering the specific appropriations by project identified in the annual appropriations act, the commissioner may transfer a part of any item to any other item subject to the approval of the Director of the Division of Budget and Accounting and of the Joint Budget Oversight Committee or its successor. Upon approval of the director and the committee, the transfer shall take effect.

e. Any federal funds which become available to the State for transportation projects which have not been appropriated to the department in the annual appropriations act, shall be deemed appropriated to the department and may, subject to approval by the Joint Budget Oversight Committee and the State Treasurer, be expended for any purpose for which such funds are qualified.

f. There shall be no appropriations from the revenues and other funds of the authority for regular and routine maintenance of public highways and components thereof, or operational activities of the department unrelated to the implementation of, and indirect costs associated with, the capital program. The commissioner shall include in his annual budget request sufficient funding to effectuate the purposes of P.L.2000, c.73 (C.27:1B-21.14 et al.).

g. To the extent that salaries or overhead of the department or the New Jersey Transit Corporation are charged to transportation projects, each agency shall keep adequate and truthful personnel records, and time charts to adequately justify each such charge and shall make those records available to the external auditor to the authority.

h. The commissioner shall annually, on or before January 1 of each fiscal year, report to the Governor and the Legislature how much money was expended in the previous fiscal year for salaries and overhead of the department and the New Jersey Transit Corporation. However, the amount expended from the revenues and other funds of the authority for salaries and overhead of the department and the New Jersey Transit Corporation for the fiscal [1]**[**years beginning July 1, 2001, July 1, 2002 and July 1, 2003**]** year beginning July 1, 2006 and each fiscal year thereafter[1] shall not exceed 13 percent of the total funds appropriated from the revenues and other nonfederal funds of the authority for those fiscal years.

i. No revenues or other funds of the authority shall be expended for emergency response operations, the review of applications for access permits under the State highway access management code and membership fees or other fees connected with membership in TRANSCOM, the Transportation Operations Coordinating Committee.

[2]**[**j. In furtherance of smart growth principles, the department shall limit the funds programmed for major highway capacity expansion in any fiscal year to no more than an average of four percent over five years of the total Annual Transportation Capital Program. For purposes of this subsection, "major highway capacity expansion" means construction of a new section of roadway or the addition of through travel lanes to an existing State highway where such lanes are designed primarily to increase the car carrying capacity of a State highway for more than one mile. Major highway capacity expansion shall not include any projects that are being performed on a bridge or roadway that has been determined by the department to be structurally deficient and functionally obsolete or

is part of a project that has been deemed consistent with the department's Master Plan submitted pursuant to section 5 of P.L.1966, c.301 (C.27:1A-5) and consistent with section 22 of P.L.1984, c.73 (C.27:1B-22) ^{1}, as amended by section 22 of P.L.2000, c.73 and other law^{1} .]^{2}

(cf: P.L.2000, c.73, s.20)

3. Section 20 of P.L.1984, c.73 (C.27:1B-20) is amended to read as follows:

20. There is hereby established in the General Fund an account entitled "Transportation Trust Fund Account." During the fiscal year beginning July 1, 1984 and during each succeeding fiscal year in which the authority has bonds, notes or other obligations outstanding, the treasurer shall credit to this account:

a. An amount equivalent to the revenue derived from [$0.09] $0.105 per gallon from the tax imposed on the sale of motor fuels pursuant to chapter 39 of Title 54 of the Revised Statutes, as provided in Article VIII, Section II, paragraph 4 of the State Constitution, provided, however, such amount during any fiscal year shall not be less than [$405,000,000] $483,000,000;

b. (Deleted by amendment, P.L.2000, c.73).

c. An amount equivalent to moneys received by the State in accordance with contracts entered into with toll road authorities or other State agencies, provided that effective with the fiscal year beginning July 1, 1988 the amount so credited shall not be less than $24,500,000.00 in any fiscal year.

The treasurer shall also credit to this account, in accordance with a contract between the treasurer and the authority, an amount equivalent to the sum of the revenues due from the increase of fees for motor vehicle registrations collected pursuant to the amendment to R.S.39:3-20 made by this act and from the increase in the tax on diesel fuels imposed pursuant to the amendment to R.S.54:39-27 made by this act and by P.L.1987, c.460, provided that the total amount credited during the fiscal year beginning July 1, 1984 shall not be less than $20,000,000.00 and that the total amount credited during the fiscal year beginning July 1, 1985 and during every fiscal year thereafter shall not be less than $30,000,000.00.

In addition to the amounts credited to the account by this section, commencing with the fiscal year beginning July 1, 1995 and every fiscal year thereafter, there shall be appropriated from the General Fund such additional amounts as are necessary to carry out the provisions of this act and beginning July 1, 2000 the fees collected pursuant to subsection a. of section 68 of P.L.1990, c.8 (C.17:33B-63) shall be credited to the account for the purposes of this act, provided, however, the amount credited from such fees during any fiscal year shall not be less than $60,000,000.

d. [After approval by the voters of the constitutional amendment proposed in Senate Committee Substitute for Senate Concurrent

Resolution No. 1 of 2000 or Assembly Concurrent Resolution No. 116 of 2000, in] In addition to the amount credited in subsection a. of this section, beginning January 1 following approval by the voters an amount equivalent to the revenue derived from the tax imposed on the sale of petroleum products pursuant to P.L.1990, c.42 (C.54:15B-1 et seq.), provided, however, such amount shall not be less than $100,000,000 in the period January 1 through June 30 following approval by the voters and shall not be less than $200,000,000 in any fiscal year thereafter and for the fiscal year commencing July 1, 2001 and for each fiscal year thereafter an amount equivalent to the revenue derived from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) on the sale of new motor vehicles, provided, however, that such amount shall not be less than [$80,000,000 for the fiscal year commencing July 1, 2001, not less than $140,000,000 for the fiscal year commencing July 1, 2002, and not less than] $200,000,000 for the fiscal year commencing July 1, 2003 and for each fiscal year thereafter, as provided in Article VIII, Section II, paragraph 4 of the State Constitution.

No later than the fifth business day of the month following the month in which a credit has been made, the treasurer shall pay to the authority, for its purposes as provided herein, the amounts then credited to the Transportation Trust Fund Account, provided that the payments to the authority shall be subject to and dependent upon appropriations being made from time to time by the Legislature of the amounts thereof for the purposes of the act.

(cf: P.L.2000, c.73, s.19)

4. Section 8 of P.L.1987, c.460 (C.27:1B-21.1) is amended to read as follows:

8. a. [Commencing with the report of the commissioner, as may be amended, required to be submitted pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) on or before March 1, 2000 for the fiscal year commencing July 1, 2000 the amount reported by the commissioner for proposed projects to be financed shall not exceed $900,000,000 and for the fiscal year beginning July 1, 2001 through the fiscal year beginning July 1, 2003 the annual amounts shall not exceed $950,000,000, all amounts exclusive of federal funds.] Commencing with the report of the commissioner, as may be amended, required to be submitted pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) on or before March 1, 2006 and on each succeeding March 1 thereafter through March 1, 2010, the annual amount so reported by the commissioner for proposed projects shall not exceed $1,600,000,000 exclusive of federal funds.

b. For the fiscal year beginning on July 1, [2000] 2006 and for each fiscal year thereafter through the fiscal year beginning on July 1, 2010, the total annual amount authorized to be appropriated from the revenues and other nonfederal funds of the New Jersey

Transportation Trust Fund Authority for the projects listed in the appropriations act pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21) shall not exceed **[**$900,000,000 and for the fiscal year beginning July 1, 2001 through the fiscal year beginning July 1, 2003 the annual amounts shall not exceed $950,000,000**]** $1,600,000,000, all amounts exclusive of federal funds.

c. (Deleted by amendment, P.L.1991, c.40.)

d. (Deleted by amendment, P.L.1992, c.10).

e. The State Auditor shall provide for a unified annual audit of expenditures from the Special Transportation Fund, established by section 21 of P.L.1984, c.73 (C.27:1B-21), in order to determine that these funds are expended for costs eligible for funding from the authority and in a manner consistent with appropriations made by the Legislature. The findings of such audits shall be transmitted to the presiding officer of each House of the Legislature, and to the Chair of the Senate Budget and Appropriations Committee, the Senate Transportation Committee, the Assembly Appropriations Committee, and the Assembly Transportation and Communications Committee or their successors.

f. The State Auditor shall review bond issuances of the authority and report to the Joint Budget Oversight Committee and to the members of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successors, on the status of the bonds of the authority and projects financed from the proceeds of the bonds. The report shall include the investment status of all unexpended bond proceeds and provide a description of any bond issues expected during a fiscal year, including type of issue, estimated amount of bonds to be issued and the expected month of sale.

(cf: P.L.2000, c.73, s.21)

5. Section 22 of P.L.1984, c.73 (C.27:1B-22) is amended to read as follows:

22. The commissioner shall prepare and submit the following reports to the Governor, the Legislature, and the Financial Policy Review Committee, established pursuant to section 6 of P.L. , c. (C.) (pending before the Legislature as this bill) under the terms set forth below: a Transportation Master Plan, a Statewide Capital Investment Strategy, an Annual Transportation Capital Program, a Transportation Trust Fund Authority Financial Plan, and a Five-Year Capital Plan.

a. To the end that the transportation system of the State shall be planned in an orderly and efficient manner and that the Legislature shall be advised of the nature and extent of public highways, public transportation projects and other transportation projects contemplated to be financed under this act, the department shall submit a master plan, as provided in subsection (a) of section 5 of P.L.1966, c.301 (C.27:1A-5). Notwithstanding the provisions of that act, the plan shall be for a period of five years and shall be submitted to the Commission on Capital Budgeting and Planning, the Chairman of the Senate Transportation Committee and the Chairman of the Assembly Transportation and Communications Committee, or their successors, and the Legislative Budget and Finance Officer, and the metropolitan planning organizations, on or before March 1, 2001, and at five-year intervals thereafter. The master plan shall set the direction for the department's overall Capital Investment Strategy and subsequent annual Transportation Capital Programs submitted to the Legislature for approval pursuant to this section. This master plan shall, to the extent practicable, conform to all federal requirements for statewide transportation planning.

b. The Department of Transportation, in conjunction with the New Jersey Transit Corporation, the New Jersey Turnpike Authority, and the South Jersey Transportation Authority, shall prepare a "Statewide Capital Investment Strategy" for at least a five-year period which shall contain, at a minimum, a statement of the goals of the department [and], the corporation, and the toll road authorities in major selected policy areas and the means by which the goals are to be attained during that period, using quantitative measures where appropriate. The Statewide Capital Investment Strategy may be updated and submitted no later than March 1 of each year. The Statewide Capital Investment Strategy shall provide for a multi-modal, intermodal, seamless [and] , technologically advanced, and secure transportation system. It shall recommend investment for major program categories, set overall goals for investment in the State's infrastructure, and develop program targets and performance measures. It may rely on infrastructure management systems as developed by the department to assess bridge conditions, pavement conditions, bridge, traffic and pedestrian safety, traffic congestion and public transit facilities. With respect to pavement conditions, the department shall set as a priority the utilization of efficient cost-effective materials and treatments as stated in section 9 of P.L.2000, c.73 (C.27:1B-21.22). In the event that there exist appropriate circumstances for the use of micro-surfacing and cold-in-place recycling, the department shall establish as a special priority the use of these materials and surface treatments. The goals of the Capital Investment Strategy shall include, but not be limited to, reduction of vehicular and pedestrian accidents, reduction in the backlog of projects, including one-half of the structurally deficient bridge repair projects and pavement deficiencies, and an increase in lane miles of bicycle paths, with a goal of constructing an additional 1,000 lane miles of bicycle paths in five years to reduce traffic congestion and for recreational uses. The construction of bicycle and pedestrian lanes, paths and facilities shall be subject to no stricter environmental requirements than are provided pursuant to federal law and regulations for such lanes, paths and facilities, notwithstanding the provisions to the contrary of State law and regulations, including State Executive Order No.

215 of 1989. With respect to the New Jersey Transit Corporation, the ⟦plan⟧ Statewide Capital Investment Strategy shall deal with the corporation's ⟦goals⟧ overall goal to keep the public transportation system in a state of good repair and, more specifically, in the area of bus transportation ⟦and⟧ , present a strategy and a preliminary timetable for the replacement of the current diesel bus fleet with a fleet of buses which have reduced emission of air pollutants. The corporation shall consider the feasibility of buses with improved pollution controls and that reduce particulate emissions and buses powered by fuel other than conventional diesel fuel, such as compressed natural gas vehicles, hybrid vehicles, fuel cell vehicles, biodiesel vehicles, vehicles operated on ultra low sulfur fuel, vehicles operated on any other bus fuel approved by the United States Environmental Protection Agency, and the like. The corporation may consider as part of its strategy, cooperative efforts with bus manufacturers, and the solicitation of federal support, in developing a "clean bus" with air pollution controls superior to currently available technology. For the fiscal year beginning July 1, 2007 and each fiscal year thereafter, all buses purchased by the New Jersey Transit Corporation shall be buses with improved pollution controls and that reduce particulate emissions or buses powered by fuel other than conventional diesel fuel, such as compressed natural gas vehicles, hybrid vehicles, fuel cell vehicles, biodiesel vehicles, vehicles operated on ultra low sulfur fuel, vehicles operated on any other bus fuel approved by the United States Environmental Protection Agency, and the like. In the event that the corporation is not able to meet the bus purchase requirements set forth in this section with respect to any fiscal year, prior to the commencement of the fiscal year the board of the corporation shall by resolution submit a report to the Legislature detailing its inability to meet the requirements and the reasons therefor and shall submit the report to the Senate and General Assembly when both houses are in session, including therein a request to be exempted from the bus purchase requirements of this section with regard to the fiscal year in question. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly. If a joint resolution approving the exemption is passed by the Legislature and signed by the Governor prior to the commencement of the fiscal year in question, the corporation shall be exempt from the requirements for that fiscal year.

In the fiscal year beginning on July 1, 2007 and in each fiscal year thereafter, in the year prior to the year in which final engineering is anticipated to start on any project which extends the reach of the New Jersey Transit rail or light rail system, the New Jersey Transit Corporation shall be required to identify and include in the annual Statewide Capital Investment Strategy the required State financial assistance to support operation of the incremental service for the first three years and the projected fare box recovery ratio at the commencement of the fourth year of operation of each project.

The [plan] Statewide Capital Investment Strategy shall also detail the planned investment of capital funds for public transportation projects of companies other than the New Jersey Transit Corporation engaged in the business of providing motor bus transportation. The [plan] Statewide Capital Investment Strategy shall demonstrate that such investment adequately addresses the finding in section 2 of P.L.1979, c.150 (C.27:25-2) that in the provision of public transportation services it is desirable to encourage to the maximum extent feasible the participation of private enterprise.

c. On or before March 1 of each year, the commissioner shall submit a report of general project categories and proposed projects thereunder to be financed in the ensuing fiscal year, including therewith a description of the projects, the county or counties within which they are to be located, a distinction between State and local projects, and the amount estimated to be expended on each project. This report shall be known as the "Annual Transportation Capital Program" for the upcoming fiscal year. It shall include proposed projects of both the Department of Transportation and the New Jersey Transit Corporation. The program shall be consistent with, and reflective of, the goals and priorities of the Capital Investment Strategy and the program shall include an explanation which demonstrates how it is consistent with, and reflective of, the goals and priorities.

d. On or before March 1 of each year, the commissioner shall also submit a "Transportation Trust Fund Authority Financial Plan" designed to implement the financing of the proposed projects. The financial plan shall contain an enumeration of the bonds, notes or other obligations of the authority which the authority intends to issue, including the amounts thereof and the conditions therefor. The financial plan shall set forth a complete operating and financial statement covering the authority's proposed operations during the ensuing fiscal year, including amounts of income from all sources, including but not limited to the proceeds of bonds, notes or other obligations to be issued, as well as interest earned. In addition, the plan shall contain proposed amounts to be appropriated and expended, as well as amounts for which the department anticipates to obligate during the ensuing fiscal year for any future expenditures.

e. The Statewide Capital Investment Strategy, the Annual Transportation Capital Program, and the Transportation Trust Fund Authority Financial Plan shall be submitted to the Senate and General Assembly. Within [30] 45 days of the receipt thereof, the Senate or the General Assembly may object in writing to the commissioner in regard to any project or projects in the Annual Transportation Capital Program it disapproves or which it is of the opinion should be modified or added to or any additional or alternative projects considered or in regard to any element of the financial plan. The commissioner shall consider the objections and recommendations and resubmit the report within 10 days, containing therein any modifications based upon the commissioner's consideration of the objections or recommendations.

f. In order that the Legislature shall be advised of the nature and extent of public highways, public transportation projects, and other transportation projects contemplated to be financed under this act, the commissioner shall submit annually, together with the Annual Transportation Capital Program, a Five-Year Capital Plan, which shall set forth projects and programs anticipated to be funded over the five-year period. The Five-Year Capital Plan shall, to the extent practicable, conform to all federal requirements for statewide transportation capital programming.

(cf: P.L.2000, c.73 s.22)

6. (New section) There is hereby created in the Executive Branch of the State Government, a body corporate and politic, with corporate succession, to be known as the Financial Policy Review Board. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the board is hereby allocated within the Department of Transportation, but, notwithstanding that allocation, the board shall be independent of any supervision or control by the department or by any body or officer thereof. The board is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

The board shall be comprised of five public members with experience in transportation finance and policy. The Governor shall appoint three of the members with the advice and consent of the Senate. The remaining members shall be appointed by the Governor as follows: one upon the joint recommendation of the President of the Senate and the Minority Leader of the Senate, and one upon the joint recommendation of the Speaker of the General Assembly and the Minority leader of the General Assembly. Each member shall serve for a four-year term and shall serve until the member’s successor is appointed and qualified; provided, however, that in order to achieve non-concurrent terms, of the members first appointed pursuant to this section, two members appointed by the Governor shall serve for four years; while the two members appointed upon the joint recommendation of the President of the Senate and the Minority Leader of the Senate and upon the joint recommendation of the Speaker of the General Assembly and the Minority Leader of the General Assembly shall serve for three years each, and the remaining member appointed by the Governor shall serve for two years. The Financial Policy Review Board shall be deemed to be constituted immediately upon appointment and qualification in the manner provided in this section of at least three members.

The purpose of the board is to assure fiscal discipline through evaluating the financing of transportation and preparing an annual State of Condition of Transportation Financing certification. The certification shall ensure that the financing and expenditures of the New Jersey Transportation Trust Fund Authority (the “authority”) adhere to certain standards. The standards are: a. The bonding limitation as provided in subsection i. of section 9 of P.L.1984, c.73 (C.27:1B-9). b. For the fiscal year commencing July 1, 2007, the amount expended from the revenues and other funds of the authority for permitted maintenance shall not exceed the amount expended for permitted maintenance in the fiscal year commencing July 1, 2006. c. The total amount authorized to be appropriated from the revenues and other funds of the authority for project costs shall not exceed $1,600,000,000 annually.

Commencing with the fiscal year beginning July 1, 2007, the board shall submit to the Governor, the Legislature, and the commissioner on an annual basis the State of Condition of Transportation Financing certification as to the requirements of subsection a. of this section referencing therein a certification with regard to subsections b. and c. of this section to the extent feasible, given the other provisions of this section. The certifications shall be based on the board’s review of the State’s fiscal year final expenditures from the preceding fiscal year ^{1}**[**ending July 30 of each year**]**^{1}, including bonding and expenditures from the annual independent audit of the authority, and the amount of authority funds programmed ^{1}**[**from**]** for^{1} permitted maintenance. If the capital program and its financing are found to be in compliance, the first annual certification required by this paragraph shall be submitted by February 1, 2008, after the certification is concurred with by the members of the authority, and by February 1 of each year thereafter. The board shall advise the commissioner ^{1}and the authority^{1} on February 1, 2008 and on each succeeding February 1, if the board finds that the ^{1}**[**department**]** authority^{1} is not in compliance with the bonding requirements as provided in subsection a. of the section, and that a corrective action plan is needed. The ^{1}**[**department**]** authority^{1} shall submit a corrective action plan that would reduce its future bond sales to offset the amount of excess bonding or to reduce future debt service payments, or both, as the case may be. Upon approval of the corrective action plan by the board, the certification shall be issued with certain conditions. The Annual Transportation Capital Program submitted to the Legislature for the forthcoming year shall be in compliance with the provisions of the corrective action plan. If the board does not approve the corrective action plan, the authority shall submit a financial plan showing bonding only for existing projects, noting that no bonds shall be issued for new projects shown in the department's Annual Transportation Capital Program. The board shall advise the commissioner on February 1, 2008 and on each succeeding February 1, if the board finds that the Department of Transportation has exceeded the limitation for the amount of authority funds spent on permitted maintenance pursuant to subsection b. of this section, or for the amount authorized to be appropriated for project costs pursuant to subsection c. of this section and that a corrective action plan is needed. The department shall submit a corrective action plan that would offset the excess amount spent, or the excess amount appropriated, in the prior year with less funding for permitted maintenance or for projects, as the case may be, in the proposed capital budget request. Upon approval of the corrective action plan by the board, a certification as to these matters shall be issued with certain conditions. The Annual Transportation Capital Program submitted to the Legislature for the forthcoming year shall be in compliance with the provisions of the corrective action plan. If the board does not approve the corrective action plan, the authority shall submit a financial plan showing bonding only for existing projects, noting that no bonds shall be issued for new projects shown in the department's Annual Transportation Capital Program.

7. Section 25 of P.L.1984, c.73 (C.27:1B-25) is amended to read as follows:

25. a. Notwithstanding the provisions of subtitle 4 of Title 27 of the Revised Statutes and P.L.1946, c.301 (C.27:15A-1 et seq.), the commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate to counties and municipalities funds for the planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways and the planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and of other transportation projects which a county or municipality may be authorized by law to undertake. In the case of a county or municipality for which an allocation has been made for the federal fiscal year beginning October 1, 1983, of an amount of federal aid for the federal aid urban system, as defined in 23 U.S.C. s.103, the amount of State aid allocated under this section in any fiscal year shall not be less than the amount of federal aid so allocated, together with the amount of matching funds required under federal law. No allocation shall be made to a county or municipality without certification by the commissioner: (1) that there exists with respect to that county or municipality a comprehensive plan, or plans, which he has approved, for the effective allocation, utilization and coordination of available federal and State transportation aid, and (2) that the county or municipality has agreed that State aid provided under this section is provided in lieu

of federal aid for the federal aid urban system program and that any federal aid for the federal aid urban system program attributable to the area will be programmed by the Department of Transportation for projects of regional significance. In any year in which insufficient funds have been appropriated to meet the minimum county allocations established in this section, or if no appropriation is provided, the commissioner shall determine on a prorated basis the amount of the deficiency for each county having a minimum allocation and allocate from funds available under the federal aid urban system program sufficient funds to meet the minimum allocations.

b. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law **[**and pursuant to the provisions of subsection d. of this section**]**, allocate at his discretion State aid to counties and municipalities for **[**public highways under their jurisdiction and for emergency**]** transportation projects, except that the amount to be appropriated for this program shall be **[**15%**]** 10% of the total amount appropriated **[**pursuant to the provisions of paragraph (2) of subsection d. of this section**]** for the total county and municipal aid programs. This State aid shall be set aside prior to any formula allocations provided for in subsections c., d., and e. of this section.

c. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law and pursuant to the provisions of **[**subsection**]** subsections b. and d. of this section, allocate State aid to municipalities for public highways under their jurisdiction**[**, except that the amount to be appropriated for this purpose shall be 85% of the amount appropriated pursuant to the provisions of paragraph (2) of subsection d. of this section**]**. The amount to be appropriated shall be allocated on the basis of the following distribution factor:

$$DF = \frac{Pc}{Ps} + \frac{Cm}{Sm}$$

where, DF equals the distribution factor

Pc equals county population

Ps equals State population

Cm equals municipal road mileage within the county

Sm equals municipal road mileage within the State.

After the amount of aid has been allocated based on the above formula, the commissioner shall determine priority for the funding of municipal projects within each county, based upon criteria relating to volume of traffic, safety considerations, growth potential, readiness to obligate funds and local taxing capacity. In addition to the above criteria used in determining priority of funding of municipal projects in each county, the commissioner shall consider whether a project is intended to remedy hazardous conditions as identified for the purposes of providing transportation pursuant to N.J.S.18A:39-1.2 for school pupils or to improve pedestrian safety.

For the purposes of this subsection, (1) "population" means the official population count as reported by the New Jersey Department of Labor; and (2) "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the department.

d. There shall be appropriated at least [$30,000,000.00 in] $175,000,000 for the fiscal year commencing July 1, 2006 and for each fiscal year thereafter, for the purposes provided herein and in subsections b. [and] , c. and e. of this section. (1) Of that appropriation, the commissioner shall allocate $5,000,000.00 as State aid to any municipality qualifying for aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.). The commissioner shall allocate the aid to each municipality in the same proportion that the municipality receives aid under P.L.1978, c.14. (2) The remaining amount of the appropriation shall be allocated pursuant to the provisions of [subsections b. and] subsection c. of this section.

e. The commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate additional funding to the Local County Aid Program for public highway projects, in accordance with a formula similar to that provided for in subsection c. of this section, except that Cm equals road mileage under county jurisdiction and Sm equals total county road mileage within the State.

(cf: P.L.2005, c.158, s.4)

8. Section 9 of P.L.1995, c.108 (C.27:1B-25.1) is amended to read as follows:

9. [State aid] Aid to counties and municipalities [pursuant to section 25 of P.L.1984, c.73 (C.27:1B-25),] administered by the department may, at the discretion of the commissioner, be disbursed to any individual county or municipality on a grant basis or on a cost reimbursement basis. Distribution of the portion of the grant provided initially to a county or municipality may be contingent on its performance in spending prior grants.

(cf: P.L.1995, c.108, s.9)

9. (New section) The Department of Transportation shall report to the Governor and the Legislature on September 1, 2008 and on September 1, 2010 on the amount of revenues and other funds of

the authority which have been expended on permitted maintenance and on salaries and overhead of the department and the corporation in the previous two fiscal years respectively. In the reports the department shall provide reasons as to why the reported expenditure levels are appropriate and in the public interest. In addition, the department shall detail steps that have been undertaken to reduce expenditures for these purposes after June 30, 2006.

10. Section 27 of P.L.2000, c.73 (C.27:1B-21.31) is repealed.

11. This act shall take effect immediately.

Changes various provisions of "New Jersey Transportation Trust Fund Authority Act."

ASSEMBLY, No. 2813

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED MARCH 6, 2006

Sponsored by:
Assemblyman JOHN S. WISNIEWSKI
District 19 (Middlesex)
Assemblyman VINCENT PRIETO
District 32 (Bergen and Hudson)

SYNOPSIS

Changes various provisions of "New Jersey Transportation Trust Fund Authority Act."

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 3/10/2006)

AN ACT concerning the New Jersey Transportation Trust Fund Authority and amending and supplementing P.L.1984, c.73 and amending P.L.1987, c.460.

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

1. Section 9 of P.L.1984, c.73 (C.27:1B-9) is amended to read as follows:

9. a. The authority shall have the power and is hereby authorized after November 15, 1984 and from time to time thereafter to issue its bonds, notes or other obligations in principal amounts as in the opinion of the authority shall be necessary to provide for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes, obligations or interest to be funded or refunded have or have not become due; and to provide for the security thereof and for the establishment or increase of reserves to secure or to pay the bonds, notes or other obligations or interest thereon and all other reserves and all costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers; and in addition to its bonds, notes and other obligations, the authority shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds or notes. No resolution or other action of the authority providing for the issuance of bonds, refunding bonds, notes, or other obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the Governor and the State Treasurer.

b. Except as may be otherwise expressly provided in the act or by the authority, every issue of bonds or notes shall be general obligations payable out of any revenues or funds of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. The authority may provide the security and payment provisions for its bonds or notes as it may determine, including (without limiting the generality of the foregoing) bonds or notes as to which the principal and interest are payable from and secured by all or any portion of the revenues of and payments to the authority, and other moneys or funds as the authority shall determine. In addition, the authority may, in anticipation of the issuance of the bonds or the receipt of appropriations, grants, reimbursements or other funds, including without limitation grants from the federal government for federal aid highways or public transportation systems, issue notes, the principal of or interest on which, or both, shall be payable out of the

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

Matter underlined <u>thus</u> is new matter.

proceeds of notes, bonds or other obligations of the authority or appropriations, grants, reimbursements or other funds or revenues of the authority. The authority may also enter into bank loan agreements, lines of credit and other security agreements as authorized pursuant to subsection h. of section 6 of P.L.1984, c.73 (C.27:1B-6) and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the authority is authorized to pay by this act and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the revenues of and payments to the authority or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

c. Whether or not the bonds and notes are of the form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of said Title 12A.

d. Bonds or notes of the authority shall be authorized by a resolution or resolutions of the authority and may be issued in one or more series and shall bear the date, or dates, mature at the time or times, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources, in the medium of payment, at the place or places within or without the State, and be subject to the terms of redemption (with or without premium) as the resolution or resolutions may provide. Bonds or notes may be further secured by a trust indenture between the authority and a corporate trustee within or without the State. All other obligations of the authority shall be authorized by resolution containing terms and conditions as the authority shall determine.

e. Bonds, notes or other obligations of the authority may be sold at public or private sale at a price or prices and in a manner as the authority shall determine, either on a negotiated or on a competitive basis. Every bond, or refunding bond, issued on or after [the effective date of P.L.1995, c.108 (C.27:1B-25.1 et al.)] the effective date of P.L.   , c.   (C.   ) (pending before the Legislature as this bill) shall mature and be paid no later than [21] 31 years from the date of the issuance of that bond or refunding bond.

f. Bonds or notes may be issued and other obligations incurred under the provisions of the act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by subsection a. of this section, and without any other proceedings or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by the act.

g. Bonds, notes and other obligations of the authority issued or incurred under the provisions of the act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision or be or constitute a pledge of the faith and credit of the State or of any political subdivision but all bonds, notes and obligations, unless funded or refunded by bonds, notes or other obligations of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in the act. Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from revenues or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on the bonds, notes or other obligations. For the purposes of this subsection, political subdivision does not include the authority.

h. All expenses incurred in carrying out the provisions of the act shall be payable solely from the revenues or funds provided or to be provided under or pursuant to the provisions of the act and nothing in the act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

i. The authority shall minimize debt incurrence by first relying on appropriations and other revenues available to the authority before incurring debt secured by State revenues to meet its statutory purposes. Commencing [on the 90th day following the date of enactment of this 1995 amendatory and supplementary act] with the fiscal year beginning July 1, 1995 and ending within the fiscal year beginning July 1, 2005, the authority shall not incur debt in any fiscal year in excess of $650,000,000, except that if that permitted amount of debt, or any portion thereof, is not incurred in a fiscal year it may be incurred in a subsequent fiscal year. Commencing with the fiscal year beginning July 1, 2006 and ending with the fiscal year beginning on July 1, 2010, the authority shall not incur debt for any fiscal year in excess of $1,600,000,000, reduced in each of those fiscal years by the amount by which the appropriation of State funds to the Transportation Trust Fund Account for that fiscal year shall exceed $895,000,000; provided, however, that if a portion of that permitted amount of debt, less any reduction as provided above, is not incurred in a fiscal year, an amount not greater than the unused portion may be incurred in a subsequent fiscal year in addition to the amount otherwise permitted subject to the approval of the Joint Budget Oversight Committee. Debt permitted for the fiscal year beginning July 1, 2006 may be incurred prior to July 1, 2006. Any increase in this limitation shall only occur if so provided for by law. In computing the foregoing limitation as to the amount of debt the authority may incur, the authority may exclude any bonds, notes or other obligations, including subordinated obligations of the authority, issued for refunding purposes.

j. Upon the decision by the authority to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the authority shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the authority relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the authority to issue and sell the refunding bonds at public or private sale and the reasons therefor.

k. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection j. of this section. The committee shall approve or disapprove the sale of refunding bonds within 10 business days after physical receipt of the report. The committee shall notify the authority in writing of the approval or disapproval as expeditiously as possible.

l. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection k. of this section.

m. Within 30 days after the sale of the refunding bonds, the authority shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, and the actual amount of debt service savings to be realized as a result of the sale of refunding bonds.

n. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the authority or to the Legislature, or both, as it deems appropriate.

o. No refunding bonds shall be issued unless the authority shall first determine that the present value of the aggregate principal of and interest on the refunding bonds is less than the present value of the aggregate principal of and interest on the outstanding bonds to be refinanced, except that, for the purposes of this limitation, present value shall be computed using a discount rate equal to the yield of those refunding bonds, and yield shall be computed using an actuarial method based upon a 360-day year with semiannual compounding and upon the prices paid to the authority by the initial purchasers of those refunding bonds.

(cf: P.L.2001, c.258, s.1)

2. Section 21 of P.L.1984, c. 73 (C.27:1B-21) is amended to read as follows:

21. a. There is hereby established a separate fund entitled "Special Transportation Fund." This fund shall be maintained by the State Treasurer and may be held in depositories as may be selected by the treasurer and invested and reinvested as other funds in the custody of the treasurer, in the manner provided by law. The commissioner may from time to time (but not more frequently than monthly) certify to the authority an amount necessary to fund payments made, or anticipated to be made by or on behalf of the department, from appropriations established for or made to the department from revenues or other funds of the authority. The commissioner's certification shall be deemed conclusive for purposes of the act. The authority shall, within 15 days of receipt of the certificate, transfer from available funds of the authority to the treasurer for deposit in the Special Transportation Fund the amount certified by the commissioner, provided that all funds transferred shall only be expended by the department by project pursuant to appropriations made from time to time by the Legislature for the purposes of the act.

b. The department shall not expend any money except as appropriated by law. Commencing with appropriations for the fiscal years beginning on July 1, 1988, the department shall not expend any funds except as are appropriated by specific projects identified by a description of the projects, the county or counties within which they are located, and amounts to be expended on each project, in the annual appropriations act.

c. No funds appropriated, authorized or expended pursuant to this act shall be used to finance the resurfacing of highways by department personnel, where that resurfacing would require the use of more than 100,000 tons of bituminous concrete for that purpose in any calendar year, except that the commissioner may waive this provision when he determines the existence of emergency conditions requiring the use of department personnel for the resurfacing of highways, after the department has effectively reached the 100,000 ton limit.

d. In order to provide the department with flexibility in administering the specific appropriations by project identified in the annual appropriations act, the commissioner may transfer a part of any item to any other item subject to the approval of the Director of the Division of Budget and Accounting and of the Joint Budget Oversight Committee or its successor. Upon approval of the director and the committee, the transfer shall take effect.

e. Any federal funds which become available to the State for transportation projects which have not been appropriated to the department in the annual appropriations act, shall be deemed appropriated to the department and may, subject to approval by the Joint Budget Oversight Committee and the State Treasurer, be expended for any purpose for which such funds are qualified.

f. There shall be no appropriations from the revenues and other funds of the authority for regular and routine maintenance of public highways and components thereof, or operational activities of the department unrelated to the implementation of, and indirect costs associated with, the capital program. The commissioner shall include in his annual budget request sufficient funding to effectuate the purposes of P.L.2000, c.73 (C.27:1B-21.14 et al.).

g. To the extent that salaries or overhead of the department or the New Jersey Transit Corporation are charged to transportation projects, each agency shall keep adequate and truthful personnel records, and time charts to adequately justify each such charge and shall make those records available to the external auditor to the authority.

h. The commissioner shall annually, on or before January 1 of each fiscal year, report to the Governor and the Legislature how much money was expended in the previous fiscal year for salaries and overhead of the department and the New Jersey Transit Corporation. However, the amount expended from the revenues and other funds of the authority for salaries and overhead of the department and the New Jersey Transit Corporation for the fiscal years beginning July 1, 2001, July 1, 2002 and July 1, 2003 shall not exceed 13 percent of the total funds appropriated from the revenues and other nonfederal funds of the authority for those fiscal years.

i. No revenues or other funds of the authority shall be expended for emergency response operations, the review of applications for access permits under the State highway access management code and membership fees or other fees connected with membership in TRANSCOM, the Transportation Operations Coordinating Committee.

j. In furtherance of smart growth principles, the department shall limit the funds programmed for major highway capacity expansion in any fiscal year to no more than an average of four percent over five years of the total Annual Transportation Capital Program. For purposes of this subsection, "major highway capacity expansion" means construction of a new section of roadway or the addition of through travel lanes to an existing State highway where such lanes are designed primarily to increase the car carrying capacity of a State highway for more than one mile. Major highway capacity expansion shall not include any projects that are being performed on a bridge or roadway that has been determined by the department to be structurally deficient and functionally obsolete or is part of a project that has been deemed consistent with the department’s Master Plan submitted pursuant to section 5 of P.L. 1966,c. 301

(C.27:1A-5) and consistent with section 22 of P.L. 1984,c. 73 (C.27: 1B-22).
(cf: P.L.2000, c.73, s.20)

3. Section 20 of P.L.1984, c.73 (C.27:1B-20) is amended to read as follows:

20. There is hereby established in the General Fund an account entitled "Transportation Trust Fund Account." During the fiscal year beginning July 1, 1984 and during each succeeding fiscal year in which the authority has bonds, notes or other obligations outstanding, the treasurer shall credit to this account:

a. An amount equivalent to the revenue derived from [$0.09] $0.105 per gallon from the tax imposed on the sale of motor fuels pursuant to chapter 39 of Title 54 of the Revised Statutes, as provided in Article VIII, Section II, paragraph 4 of the State Constitution, provided, however, such amount during any fiscal year shall not be less than [$405,000,000] $483,000,000;

b. (Deleted by amendment, P.L.2000, c.73).

c. An amount equivalent to moneys received by the State in accordance with contracts entered into with toll road authorities or other State agencies, provided that effective with the fiscal year beginning July 1, 1988 the amount so credited shall not be less than $24,500,000.00 in any fiscal year.

The treasurer shall also credit to this account, in accordance with a contract between the treasurer and the authority, an amount equivalent to the sum of the revenues due from the increase of fees for motor vehicle registrations collected pursuant to the amendment to R.S.39:3-20 made by this act and from the increase in the tax on diesel fuels imposed pursuant to the amendment to R.S.54:39-27 made by this act and by P.L.1987, c.460, provided that the total amount credited during the fiscal year beginning July 1, 1984 shall not be less than $20,000,000.00 and that the total amount credited during the fiscal year beginning July 1, 1985 and during every fiscal year thereafter shall not be less than $30,000,000.00.

In addition to the amounts credited to the account by this section, commencing with the fiscal year beginning July 1, 1995 and every fiscal year thereafter, there shall be appropriated from the General Fund such additional amounts as are necessary to carry out the provisions of this act and beginning July 1, 2000 the fees collected pursuant to subsection a. of section 68 of P.L.1990, c.8 (C.17:33B-63) shall be credited to the account for the purposes of this act, provided, however, the amount credited from such fees during any fiscal year shall not be less than $60,000,000.

d. [After approval by the voters of the constitutional amendment proposed in Senate Committee Substitute for Senate Concurrent Resolution No. 1 of 2000 or Assembly Concurrent Resolution No. 116 of 2000, in] In addition to the amount credited in subsection a. of this section, beginning January 1 following approval by the voters an amount equivalent to the revenue derived from the tax imposed on the sale of petroleum products pursuant to P.L.1990, c.42 (C.54:15B-1 et seq.), provided, however, such amount shall not be less than $100,000,000 in the period January 1 through June 30 following approval by the voters and shall not be less than $200,000,000 in any fiscal year thereafter and for the fiscal year commencing July 1, 2001 and for each fiscal year thereafter an amount equivalent to the revenue derived from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) on the sale of new motor vehicles, provided, however, that such amount shall not be less than [$80,000,000 for the fiscal year commencing July 1, 2001, not less than $140,000,000 for the fiscal year commencing July 1, 2002, and not less than] $200,000,000 for the fiscal year commencing July 1, 2003 and for each fiscal year thereafter, as provided in Article VIII, Section II, paragraph 4 of the State Constitution.

No later than the fifth business day of the month following the month in which a credit has been made, the treasurer shall pay to the authority, for its purposes as provided herein, the amounts then credited to the Transportation Trust Fund Account, provided that the payments to the authority shall be subject to and dependent upon appropriations being made from time to time by the Legislature of the amounts thereof for the purposes of the act.

(cf: P.L.2000, c.73, s.19)

4. Section 8 of P.L.1987, c.460 (C.27:1B-21.1) is amended to read as follows:

8. a. [Commencing with the report of the commissioner, as may be amended, required to be submitted pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) on or before March 1, 2000 for the fiscal year commencing July 1, 2000 the amount reported by the commissioner for proposed projects to be financed shall not exceed $900,000,000 and for the fiscal year beginning July 1, 2001 through the fiscal year beginning July 1, 2003 the annual amounts shall not exceed $950,000,000, all amounts exclusive of federal funds.] Commencing with the report of the commissioner, as may be amended, required to be submitted pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) on or before March 1, 2006 and on each succeeding March 1 thereafter through March 1, 2010, the annual amount so reported by the commissioner for proposed projects shall not exceed $1,600,000,000 exclusive of federal funds.

b. For the fiscal year beginning on July 1, [2000] 2006 and for each fiscal year thereafter through the fiscal year beginning on July 1, 2010, the total annual amount authorized to be appropriated from the revenues and other nonfederal funds of the New Jersey Transportation Trust Fund Authority for the projects listed in the appropriations act pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21) shall not exceed [$900,000,000 and for the fiscal year beginning July 1, 2001 through the fiscal year beginning July 1, 2003 the annual amounts shall not exceed $950,000,000**]** $1,600,000,000, all amounts exclusive of federal funds.

c. (Deleted by amendment, P.L.1991, c.40.)

d. (Deleted by amendment, P.L.1992, c.10).

e. The State Auditor shall provide for a unified annual audit of expenditures from the Special Transportation Fund, established by section 21 of P.L.1984, c.73 (C.27:1B-21), in order to determine that these funds are expended for costs eligible for funding from the authority and in a manner consistent with appropriations made by the Legislature. The findings of such audits shall be transmitted to the presiding officer of each House of the Legislature, and to the Chair of the Senate Budget and Appropriations Committee, the Senate Transportation Committee, the Assembly Appropriations Committee, and the Assembly Transportation and Communications Committee or their successors.

f. The State Auditor shall review bond issuances of the authority and report to the Joint Budget Oversight Committee and to the members of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successors, on the status of the bonds of the authority and projects financed from the proceeds of the bonds. The report shall include the investment status of all unexpended bond proceeds and provide a description of any bond issues expected during a fiscal year, including type of issue, estimated amount of bonds to be issued and the expected month of sale.

(cf: P.L.2000, c.73, s.21)

5. Section 22 of P.L.1984, c.73 (C.27:1B-22) is amended to read as follows:

22. The commissioner shall prepare and submit the following reports to the Governor, the Legislature, and the Financial Policy Review Committee, established pursuant to section 6 of P.L. , c. (C.) (pending before the Legislature as this bill) under the terms set forth below: a Transportation Master Plan, a Statewide Capital Investment Strategy, an Annual Transportation Capital Program, a Transportation Trust Fund Authority Financial Plan, and a Five-Year Capital Plan.

a. To the end that the transportation system of the State shall be planned in an orderly and efficient manner and that the Legislature shall be advised of the nature and extent of public highways, public transportation projects and other transportation projects contemplated to be financed under this act, the department shall submit a master plan, as provided in subsection (a) of section 5 of P.L.1966, c.301 (C.27:1A-5). Notwithstanding the provisions of that act, the plan shall be for a period of five years and shall be submitted to the Commission on Capital Budgeting and Planning, the Chairman of the Senate Transportation Committee and the Chairman of the Assembly Transportation and Communications

Committee, or their successors, and the Legislative Budget and Finance Officer, and the metropolitan planning organizations, on or before March 1, 2001, and at five-year intervals thereafter. The master plan shall set the direction for the department's overall Capital Investment Strategy and subsequent annual Transportation Capital Programs submitted to the Legislature for approval pursuant to this section. This master plan shall, to the extent practicable, conform to all federal requirements for statewide transportation planning.

b. The Department of Transportation, in conjunction with the New Jersey Transit Corporation, the New Jersey Turnpike Authority, and the South Jersey Transportation Authority, shall prepare a "Statewide Capital Investment Strategy" for at least a five-year period which shall contain, at a minimum, a statement of the goals of the department [and], the corporation, and the toll road authorities in major selected policy areas and the means by which the goals are to be attained during that period, using quantitative measures where appropriate. The Statewide Capital Investment Strategy may be updated and submitted no later than March 1 of each year. The Statewide Capital Investment Strategy shall provide for a multi-modal, intermodal, seamless [and] , technologically advanced, and secure transportation system. It shall recommend investment for major program categories, set overall goals for investment in the State's infrastructure, and develop program targets and performance measures. It may rely on infrastructure management systems as developed by the department to assess bridge conditions, pavement conditions, bridge, traffic and pedestrian safety, traffic congestion and public transit facilities. With respect to pavement conditions, the department shall set as a priority the utilization of efficient cost-effective materials and treatments as stated in section 9 of P.L.2000, c.73 (C.27:1B-21.22). In the event that there exist appropriate circumstances for the use of micro-surfacing and cold-in-place recycling, the department shall establish as a special priority the use of these materials and surface treatments. The goals of the Capital Investment Strategy shall include, but not be limited to, reduction of vehicular and pedestrian accidents, reduction in the backlog of projects, including one-half of the structurally deficient bridge repair projects and pavement deficiencies, and an increase in lane miles of bicycle paths, with a goal of constructing an additional 1,000 lane miles of bicycle paths in five years to reduce traffic congestion and for recreational uses. The construction of bicycle and pedestrian lanes, paths and facilities shall be subject to no stricter environmental requirements than are provided pursuant to federal law and regulations for such lanes, paths and facilities, notwithstanding the provisions to the contrary of State law and regulations, including State Executive Order No. 215 of 1989. With respect to the New Jersey Transit Corporation, the [plan] Statewide Capital Investment Strategy shall deal with the corporation's [goals] overall goal to keep the public transportation system in a state of good repair and, more specifically, in the area of bus transportation [and] , present a strategy and a preliminary timetable for the replacement of the current diesel bus fleet with a fleet of buses which have reduced emission of air pollutants. The corporation shall consider the feasibility of buses with improved pollution controls and that reduce particulate emissions and buses powered by fuel other than conventional diesel fuel, such as compressed natural gas vehicles, hybrid vehicles, fuel cell vehicles, biodiesel vehicles, vehicles operated on ultra low sulfur fuel, vehicles operated on any other bus fuel approved by the United States Environmental Protection Agency, and the like. The corporation may consider as part of its strategy, cooperative efforts with bus manufacturers, and the solicitation of federal support, in developing a "clean bus" with air pollution controls superior to currently available technology. For the fiscal year beginning July 1, 2007 and each fiscal year thereafter, all buses purchased by the New Jersey Transit Corporation shall be buses with improved pollution controls and that reduce particulate emissions or buses powered by fuel other than conventional diesel fuel, such as compressed natural gas vehicles, hybrid vehicles, fuel cell vehicles, biodiesel vehicles, vehicles operated on ultra low sulfur fuel, vehicles operated on any other bus fuel approved by the United States Environmental Protection Agency, and the like. In the event that the corporation is not able to meet the bus purchase requirements set forth in this section with respect to any fiscal year, prior to the commencement of the fiscal year the board of the corporation shall by resolution submit a report to the Legislature detailing its inability to meet the requirements and the reasons therefor and shall submit the report to the Senate and General Assembly when both houses are in session, including therein a request to be exempted from the bus purchase requirements of this section with regard to the fiscal year in question. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly. If a joint resolution approving the exemption is passed by the Legislature and signed by the Governor prior to the commencement of the fiscal year in question, the corporation shall be exempt from the requirements for that fiscal year.

In the fiscal year beginning on July 1, 2007 and in each fiscal year thereafter, in the year prior to the year in which final engineering is anticipated to start on any project which extends the reach of the New Jersey Transit rail or light rail system, the New Jersey Transit Corporation shall be required to identify and include in the annual Statewide Capital Investment Strategy the required State financial assistance to support operation of the incremental service for the first three years and the projected fare box recovery ratio at the commencement of the fourth year of operation of each project.

The ⟦plan⟧ Statewide Capital Investment Strategy shall also detail the planned investment of capital funds for public transportation projects of companies other than the New Jersey Transit Corporation engaged in the business of providing motor bus transportation. The ⟦plan⟧ Statewide Capital Investment Strategy shall demonstrate that such investment adequately addresses the finding in section 2 of P.L.1979, c.150 (C.27:25-2) that in the provision of public transportation services it is desirable to encourage to the maximum extent feasible the participation of private enterprise.

c. On or before March 1 of each year, the commissioner shall submit a report of general project categories and proposed projects thereunder to be financed in the ensuing fiscal year, including therewith a description of the projects, the county or counties within which they are to be located, a distinction between State and local projects, and the amount estimated to be expended on each project. This report shall be known as the "Annual Transportation Capital Program" for the upcoming fiscal year. It shall include proposed projects of both the Department of Transportation and the New Jersey Transit Corporation. The program shall be consistent with, and reflective of, the goals and priorities of the Capital Investment Strategy and the program shall include an explanation which demonstrates how it is consistent with, and reflective of, the goals and priorities.

d. On or before March 1 of each year, the commissioner shall also submit a "Transportation Trust Fund Authority Financial Plan" designed to implement the financing of the proposed projects. The financial plan shall contain an enumeration of the bonds, notes or other obligations of the authority which the authority intends to issue, including the amounts thereof and the conditions therefor. The financial plan shall set forth a complete operating and financial statement covering the authority's proposed operations during the ensuing fiscal year, including amounts of income from all sources, including but not limited to the proceeds of bonds, notes or other obligations to be issued, as well as interest earned. In addition, the plan shall contain proposed amounts to be appropriated and expended, as well as amounts for which the department anticipates to obligate during the ensuing fiscal year for any future expenditures.

e. The Statewide Capital Investment Strategy, the Annual Transportation Capital Program, and the Transportation Trust Fund Authority Financial Plan shall be submitted to the Senate and General Assembly. Within ⟦30⟧ 45 days of the receipt thereof, the Senate or the General Assembly may object in writing to the commissioner in regard to any project or projects in the Annual Transportation Capital Program it disapproves or which it is of the opinion should be modified or added to or any additional or alternative projects considered or in regard to any element of the financial plan. The commissioner shall consider the objections and recommendations and resubmit the report within 10 days, containing therein any modifications based upon the commissioner's consideration of the objections or recommendations.

<u>f. In order that the Legislature shall be advised of the nature and extent of public highways, public transportation projects, and other transportation projects contemplated to be financed under this act, the commissioner shall submit annually, together with the Annual Transportation Capital Program, a Five-Year Capital Plan, which shall set forth projects and programs anticipated to be funded over the five-year period. The Five-Year Capital Plan shall, to the extent practicable, conform to all federal requirements for statewide transportation capital programming.</u>

(cf: P.L.2000, c.73 s.22)

6. (New section) There is hereby created in the Executive Branch of the State Government, a body corporate and politic, with corporate succession, to be known as the Financial Policy Review Board. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the board is hereby allocated within the Department of Transportation, but, notwithstanding that allocation, the board shall be independent of any supervision or control by the department or by any body or officer thereof. The board is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

The board shall be comprised of five public members with experience in transportation finance and policy. The Governor shall appoint three of the members with the advice and consent of the Senate. The remaining members shall be appointed by the Governor as follows: one upon the joint recommendation of the President of the Senate and the Minority Leader of the Senate, and one upon the joint recommendation of the Speaker of the General Assembly and the Minority leader of the General Assembly. Each member shall serve for a four-year term and shall serve until the member’s successor is appointed and qualified; provided, however, that in order to achieve non-concurrent terms, of the members first appointed pursuant to this section, two members appointed by the Governor shall serve for four years; while the two members appointed upon the joint recommendation of the President of the Senate and the Minority Leader of the Senate and upon the joint recommendation of the Speaker of the General Assembly and the Minority Leader of the General Assembly shall serve for three years each, and the remaining member appointed by the Governor shall serve for two years . The Financial Policy Review Board shall be deemed to be constituted immediately upon appointment and qualification in the manner provided in this section of at least three members.

The purpose of the board is to assure fiscal discipline through evaluating the financing of transportation and preparing an annual State of Condition of Transportation Financing certification. The certification shall ensure that the financing and expenditures of the New Jersey Transportation Trust Fund Authority (the "authority") adhere to certain standards. The standards are: a. The bonding limitation as provided in subsection i. of section 9 of P.L.1984, c.73 (C.27:1B-9). b. For the fiscal year commencing July 1, 2007, the amount expended from the revenues and other funds of the authority for permitted maintenance shall not exceed the amount expended for permitted maintenance in the fiscal year commencing July 1, 2006. c. The total amount authorized to be appropriated from the revenues and other funds of the authority for project costs shall not exceed $1,600,000,000 annually.

Commencing with the fiscal year beginning July 1, 2007, the board shall submit to the Governor, the Legislature, and the commissioner on an annual basis the State of Condition of Transportation Financing certification as to the requirements of subsection a. of this section referencing therein a certification with regard to subsections b. and c. of this section to the extent feasible, given the other provisions of this section. The certifications shall be based on the board's review of the State's fiscal year final expenditures from the preceding fiscal year ending July 30 of each year, including bonding and expenditures from the annual independent audit of the authority, and the amount of authority funds programmed from permitted maintenance. If the capital program and its financing are found to be in compliance, the first annual certification required by this paragraph shall be submitted by February 1, 2008, after the certification is concurred with by the members of the authority, and by February 1 of each year thereafter. The board shall advise the commissioner on February 1, 2008 and on each succeeding February 1, if the board finds that the department is not in compliance with the bonding requirements as provided in subsection a. of the section, and that a corrective action plan is needed. The department shall submit a corrective action plan that would reduce its future bond sales to offset the amount of excess bonding or to reduce future debt service payments, or both, as the case may be. Upon approval of the corrective action plan by the board, the certification shall be issued with certain conditions. The Annual Transportation Capital Program submitted to the Legislature for the forthcoming year shall be in compliance with the provisions of the corrective action plan. If the board does not approve the corrective action plan, the authority shall submit a financial plan showing bonding only for existing projects, noting that no bonds shall be issued for new projects shown in the department's Annual Transportation Capital Program. The board shall advise the commissioner on February 1, 2008 and on each succeeding February 1, if the board finds that the Department of Transportation has exceeded the limitation for the amount of authority funds spent on permitted maintenance pursuant to subsection b. of this section, or for the amount authorized to be appropriated for project costs pursuant to subsection c. of this section and that a corrective action plan is needed. The department shall submit a corrective action plan that would offset the excess amount spent, or the excess amount appropriated, in the prior year with less funding for permitted maintenance or for projects, as the case may be, in the proposed capital budget request. Upon approval of the corrective action plan by the board, a certification as to these matters shall be issued with certain conditions. The Annual Transportation Capital Program submitted to the Legislature for the forthcoming year shall be in compliance with the provisions of the corrective action plan. If the board does not approve the corrective action plan, the authority shall submit a financial plan showing bonding only for existing projects, noting that no bonds shall be issued for new projects shown in the department's Annual Transportation Capital Program.

7. Section 25 of P.L.1984, c.73 (C.27:1B-25) is amended to read as follows:

25. a. Notwithstanding the provisions of subtitle 4 of Title 27 of the Revised Statutes and P.L.1946, c.301 (C.27:15A-1 et seq.), the commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate to counties and municipalities funds for the planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways and the planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and of other transportation projects which a county or municipality may be authorized by law to undertake. In the case of a county or municipality for which an allocation has been made for the federal fiscal year beginning October 1, 1983, of an amount of federal aid for the federal aid urban system, as defined in 23 U.S.C. s.103, the amount of State aid allocated under this section in any fiscal year shall not be less than the amount of federal aid so allocated, together with the amount of matching funds required under federal law. No allocation shall be made to a county or municipality without certification by the commissioner: (1) that there exists with respect to that county or municipality a comprehensive plan, or plans, which he has approved, for the effective allocation, utilization and coordination of available federal and State transportation aid, and (2) that the county or municipality has agreed that State aid provided under this section is provided in lieu of federal aid for the federal aid urban system program and that any federal aid for the federal aid urban system program attributable to the area will be programmed by the Department of Transportation for projects of regional significance. In any year in which insufficient funds have been appropriated to meet the minimum

county allocations established in this section, or if no appropriation is provided, the commissioner shall determine on a prorated basis the amount of the deficiency for each county having a minimum allocation and allocate from funds available under the federal aid urban system program sufficient funds to meet the minimum allocations.

b. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law [and pursuant to the provisions of subsection d. of this section], allocate at his discretion State aid to counties and municipalities for [public highways under their jurisdiction and for emergency] transportation projects, except that the amount to be appropriated for this program shall be [15%] 10% of the total amount appropriated [pursuant to the provisions of paragraph (2) of subsection d. of this section] for the total county and municipal aid programs. This State aid shall be set aside prior to any formula allocations provided for in subsections c., d., and e. of this section.

c. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law and pursuant to the provisions of [subsection] subsections b. and d. of this section, allocate State aid to municipalities for public highways under their jurisdiction[, except that the amount to be appropriated for this purpose shall be 85% of the amount appropriated pursuant to the provisions of paragraph (2) of subsection d. of this section]. The amount to be appropriated shall be allocated on the basis of the following distribution factor:

$$DF = \frac{Pc}{Ps} + \frac{Cm}{Sm}$$

where, DF equals the distribution factor

Pc equals county population

Ps equals State population

Cm equals municipal road mileage within the county

Sm equals municipal road mileage within the State.

After the amount of aid has been allocated based on the above formula, the commissioner shall determine priority for the funding of municipal projects within each county, based upon criteria relating to volume of traffic, safety considerations, growth potential, readiness to obligate funds and local taxing capacity. In addition to the above criteria used in determining priority of funding of municipal projects in each county, the commissioner shall consider whether a project is intended to remedy hazardous conditions as identified for the purposes of providing transportation pursuant to N.J.S.18A:39-1.2 for school pupils or to improve pedestrian safety.

For the purposes of this subsection, (1) "population" means the official population count as reported by the New Jersey Department of Labor; and (2) "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the department.

d. There shall be appropriated at least **[**$30,000,000.00 in**]** $175,000,000 for the fiscal year commencing July 1, 2006 and for each fiscal year thereafter, for the purposes provided herein and in subsections b. **[**and**]** , c. and e. of this section. (1) Of that appropriation, the commissioner shall allocate $5,000,000.00 as State aid to any municipality qualifying for aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.). The commissioner shall allocate the aid to each municipality in the same proportion that the municipality receives aid under P.L.1978, c.14. (2) The remaining amount of the appropriation shall be allocated pursuant to the provisions of **[**subsections b. and**]** subsection c. of this section.

e. The commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate additional funding to the Local County Aid Program for public highway projects, in accordance with a formula similar to that provided for in subsection c. of this section, except that Cm equals road mileage under county jurisdiction and Sm equals total county road mileage within the State.

(cf: P.L.2005, c.158, s.4)

8. Section 9 of P.L.1995, c.108 (C.27:1B-25.1) is amended to read as follows:

9. **[**State aid**]** Aid to counties and municipalities **[**pursuant to section 25 of P.L.1984, c.73 (C.27:1B-25),**]** administered by the department may, at the discretion of the commissioner, be disbursed to any individual county or municipality on a grant basis or on a cost reimbursement basis. Distribution of the portion of the grant provided initially to a county or municipality may be contingent on its performance in spending prior grants.

(cf: P.L.1995, c.108, s.9)

9. (New section) The Department of Transportation shall report to the Governor and the Legislature on September 1, 2008 and on September 1, 2010 on the amount of revenues and other funds of the authority which have been expended on permitted maintenance and on salaries and overhead of the department and the corporation in the previous two fiscal years respectively. In the reports the department shall provide reasons as to why the reported expenditure levels are appropriate and in the public interest. In addition, the

department shall detail steps that have been undertaken to reduce expenditures for these purposes after June 30, 2006.

10. Section 27 of P.L.2000, c.73 (C.27:1B-21.31) is repealed.

11. This act shall take effect immediately.

STATEMENT

This bill amends and supplements the New Jersey Transportation Trust Fund laws to:

(1) Permit the Transportation Trust Fund authority (TTFA) to issue bonds and refunding bonds after the effective date of the bill for a period of 31 years. The current maximum term is 21 years.

(2) Increase the TTFA's annual debt limit from $650,000,000 to $1,600,000,000. The carryforward provisions and the exemption of refunding debt from this limit are not affected by this change.

(3) Provide for the crediting of an amount equivalent to 10.5 cents from the motor fuels tax, rather than 9 cents of that tax, to the Transportation Trust Fund Account.

(4) Provide that the annual amount of proposed TTFA projects reported by the Commissioner of Transportation from March 1, 2006 and each March 1 thereafter shall not exceed $1,600,000,000 and likewise to limit the amount to be appropriated for this purpose from fiscal year 2007 and each fiscal year thereafter to $1,600,000,000 annually, exclusive of federal funds.

(5) Increase the statutory minimum amount of local aid under the Trust Fund to $175 million. The amount of $150 million is currently appropriated for this purpose.

(6) Create a Financial Policy Review Board to assure fiscal discipline by evaluating TTFA practices and to submit an annual State of Condition of Transportation Financing report.

These changes will permit the TTFA to issue bonds and refunding bonds, and to receive additional revenues, sufficient to provide a TTFA program of $1.6 billion annually.

ASSEMBLY TRANSPORTATION AND PUBLIC WORKS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2813

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 2006

The Assembly Transportation and Public Works Committee releases favorably and with amendments Assembly Bill No. 2813.

As amended, this bill amends and supplements the New Jersey Transportation Trust Fund Authority laws to:

(1) Permit the Transportation Trust Fund Authority (TTFA) to issue bonds and refunding bonds for a period of 31 years. The current maximum term is 21 years.

(2) Increase the TTFA's annual debt limit from $650,000,000 to $1,600,000,000 for a period of five fiscal years, beginning in FY 2007. This limit would be reduced in any fiscal year in which the annual appropriation of State funds to the Transportation Trust Fund exceeds $895,000,000 by the amount that the appropriation exceeds $895,000,000. Additionally, any "unused" debt limitation may be carried forward into a subsequent fiscal year, subject to the approval of the Joint Budget Oversight Committee (JBOC).

(3) Provide that no refunding bonds shall be issued unless the TTFA first determines that such a refunding will result in a net present value "savings."

(4) Provide for the crediting of an amount equivalent to 10.5 cents per gallon from the motor fuels tax to the Transportation Trust Fund Account, an increase of 1.5 cents over the current 9 cents per gallon dedication.

(5) Reinstate the 13 percent cap, which expired on July 1, 2003, on the amount of Department of Transportation (DOT) and New Jersey Transit (NJT) salaries and overhead which may be charged to transportation projects. The cap applies to the revenues and other nonfederal funds of the authority appropriated in each fiscal year.

(6) Provide that the annual amount of proposed TTFA projects reported by the Commissioner of Transportation on March 1, 2006, and each March 1 thereafter through March 1, 2010, shall not exceed $1,600,000,000 and likewise limit the amount to be appropriated for this purpose beginning in fiscal year 2007, and each fiscal year

thereafter through fiscal year 2011, to $1,600,000,000 annually, exclusive of federal funds.

(7) Require the DOT to limit the funds programmed for major highway capacity expansion in any fiscal year to no more than an average of four percent over five years of the total Annual Transportation Capital Program. Major highway capacity expansion shall not include any project that is being performed on a bridge or roadway that has been determined by the department to be structurally deficient and functionally obsolete or is part of a project that has been deemed consistent with DOT's Master Plan. This provision would permit the DOT to undertake projects that protect health and safety in the furtherance of the interest of the State's motorists.

(8) Increase the statutory minimum amount of local aid under the Trust Fund to $175 million. Currently, $150 million is appropriated for this purpose.

(9) Create a Financial Policy Review Board to assure fiscal discipline through the evaluation of TTFA practices and submission of an annual State of Condition of Transportation Financing report.

(10) Require the Commissioner to submit to the Legislature and Governor, the following reports: a Transportation Master Plan, a Statewide Capital Investment Strategy, an Annual Transportation Capital Program, a TTFA Financial Plan, and a Five-Year Capital Plan. Additionally, in 2007 and 2009, the Commissioner is required to report on permitted maintenance and overhead expenditures.

These changes will permit the TTFA to issue bonds and refunding bonds, and to receive additional revenues, sufficient to provide a TTFA program of $1.6 billion annually in each of the next five fiscal years, FY 2007 – FY 2011.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) Specify that reinstating the 13 percent cap on the amount of DOT and NJT salaries and overhead which may be charged to transportation projects commences with the fiscal year beginning July 1, 2006, and continues for each fiscal year thereafter.

(2) Clarify a statutory citation in section 2.

(3) Clarify in section 6 that the Financial Policy Review Board shall advise the TTFA, in addition to the Commissioner of Transportation, if it finds that the TTFA is not in compliance with the bonding requirements contained in this bill and require the TTFA to submit a corrective action plan. The committee also made various technical amendments of a grammatical nature in section 6.

MINORITY STATEMENT

By Assemblyman O'Toole, Assemblyman Kean and Assemblywoman Beck

It is essential to provide for a strong program to fund transportation construction and improvements. At best, this bill would salvage the Transportation Trust Fund for a short period of time and sets our transportation program and the State budget on a road that ends in fiscal ruin.

This legislation seeks to establish an $8 billion transportation spending program over the next five years – an increase of $2 billion over current funding levels. However, the legislation identifies only one small, new revenue stream (the dedication of 1.5 cents in gas tax receipts) and no spending controls to support such a tremendous increase in the size of the program and the accompanying debt. Rather, the legislation proposes to pay for the spending by shifting current revenue streams and increasing overall debt by $6 billion.

For the next 35 years, this legislation saddles taxpayers with an obligation to pay an additional $19 billion in debt service– funds that may be better spent dealing with high property taxes, protecting and providing care for our most vulnerable children, replacing or repairing crumbling bridges, or any one of many other critical issues facing our State.

In what can only be described as spectacularly poor fiscal policy, the legislation proposes to issue debt with a 30-year payment schedule to pay for administrative salaries, capital maintenance, and projects with useful life span that is far less than 30 years. Projects that will be enjoyed by the current generation of State residents will continue to be paid for by our grandchildren. They will still be paying $900 million annually 35 years from now for projects that will be rendered obsolete.

A fiscally responsible alternative has been proposed that would significantly increase pay-as-you-go funding for transportation projects by utilizing existing revenues collected from motorists through motor vehicle fees, tolls, and gasoline taxes. We support this alternative.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]
ASSEMBLY, No. 2813

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 13, 2006

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2813 (1R), with committee amendments.

Assembly Bill No. 2813 (1R), as amended, amends and supplements the New Jersey Transportation Trust Fund Authority laws to:

(1) Permit the Transportation Trust Fund Authority (TTFA) to issue bonds and refunding bonds for a period of 31 years. The current maximum term is 21 years.

(2) Increase the TTFA's annual debt limit from $650,000,000 to $1,600,000,000 for a period of five fiscal years, beginning in FY 2007. This limit would be reduced in any fiscal year in which the annual appropriation of State funds to the Transportation Trust Fund exceeds $895,000,000 by the amount that the appropriation exceeds $895,000,000. Additionally, any "unused" debt limitation may be carried forward into a subsequent fiscal year, subject to the approval of the Joint Budget Oversight Committee (JBOC).

(3) Provide that no refunding bonds shall be issued unless the TTFA first determines that such a refunding will result in a net present value "savings."

(4) Provide for the crediting of an amount equivalent to 10.5 cents per gallon from the motor fuels tax to the Transportation Trust Fund Account, an increase of 1.5 cents over the current 9 cents per gallon dedication.

(5) Reinstate the 13 percent cap, which expired on July 1, 2003, on the amount of Department of Transportation (DOT) and New Jersey Transit (NJT) salaries and overhead which may be charged to transportation projects. The cap applies to the revenues and other nonfederal funds of the authority appropriated in each fiscal year.

(6) Provide that the annual amount of proposed TTFA projects reported by the Commissioner of Transportation on March 1, 2006, and each March 1 thereafter through March 1, 2010, shall not exceed $1,600,000,000 and likewise limit the amount to be appropriated for this purpose beginning in fiscal year 2007, and each fiscal year

thereafter through fiscal year 2011, to $1,600,000,000 annually, exclusive of federal funds.

(7) Increase the statutory minimum amount of local aid under the Trust Fund to $175 million. Currently, $150 million is appropriated for this purpose.

(8) Create a Financial Policy Review Board to assure fiscal discipline through the evaluation of TTFA practices and submission of an annual State of Condition of Transportation Financing report.

(9) Require the Commissioner to submit to the Legislature and Governor, the following reports: a Transportation Master Plan, a Statewide Capital Investment Strategy, an Annual Transportation Capital Program, a TTFA Financial Plan, and a Five-Year Capital Plan. Additionally, in 2007 and 2009, the Commissioner is required to report on permitted maintenance and overhead expenditures.

These changes will permit the TTFA to issue bonds and refunding bonds, and to receive additional revenues, sufficient to provide a TTFA program of $1.6 billion annually in each of the next five fiscal years, FY 2007 – FY 2011.

As reported by the committee, this bill is identical to Senate Bill No. 1470 (2R).

FISCAL IMPACT:

This bill increases the amount of motor fuels tax revenue that is statutorily dedicated to the Transportation Trust Fund Account by 1.5 cents per gallon to 10.5 cents per gallon. This change is expected to realize a $78,000,000 increase (from $405,000,000 currently to $483,000,000) in the amount of motor fuels tax revenue dedicated to the TTF. As the bill does not change State revenues or the rates of tax imposed under the motor fuels tax, this proposal will result in a corresponding reduction in General Fund resources available for other purposes.

COMMITTEE AMENDMENTS:

The amendments delete a provision limiting expenditures for major highway capacity expansion.

Minority Statement
by
Assemblymen Pennachio, Merkt and Doherty and Assemblywoman Karrow

This bill purports to provide a prudent funding source for transportation projects. It also has been labeled a reform measure. It is neither.

Instead, the legislation commits future generations to tens of billions of dollars of additional debt and debt service payments.

According to those supporting the measure, the ultimate cost has yet to be determined. The only available fiscal information has been gleaned from newspaper accounts and this despite the fact that specific information was requested well in advance of the committee's action on the bill. Thus the committee was asked to vote on this measure without knowing the ultimate cost.

The committee was told that the Administration had not yet figured out the costs. Members were told to vote yes and trust them; that they would be fiscally responsible. This is the same Administration that finds it fiscally responsible to issue $6.4 billion of new Transportation Trust Fund debt over the next five years and incur approximately $18 billion of new debt service payments.

Amendments were offered that proposed real reform and would have put the Transportation Trust Fund on a path toward financial solvency. They were defeated.

Without real reform, this measure should not go forward.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 2813

STATE OF NEW JERSEY
212th LEGISLATURE

DATED: APRIL 21, 2006

SUMMARY

Synopsis:	Changes various provisions of "New Jersey Transportation Trust Fund Authority Act."
Type of Impact:	Increased annual appropriation from General Fund to Transportation Trust Fund Account; increased authorization for annual appropriations from Transportation Trust Fund Authority (TTFA); increase in TTFA borrowing.
Agencies Affected:	Department of the Treasury, Department of Transportation, Transportation Trust Fund Authority.

Office of Legislative Services Estimate

Fiscal Impact	**Year 1**	**Year 2**	**Year 3**
Transportation Trust Fund Authority:			
Revenue:	$78 million increase annually		
Capital Program:	$1.6 billion annually		
Debt Service:	Indeterminate significant increase		

- The bill authorizes the Transportation Trust Fund Authority (TTFA) to incur $1.6 billion in new debt annually for fiscal years 2007-2011, an increase of $950 million per year and $4.75 billion in total over current limits, and increases the maximum maturity of TTFA bonds by 10 years, from 21 to 31 years.

- The bill increases the annual amount of motor fuels tax dedicated to the TTFA by $.015 per gallon, from $.09 to $.105, and increases the minimum dollar amount so dedicated by $78 million, from $405 million to $483 million. Under recent annual appropriations acts, the revenue from the currently dedicated portion of the motor fuels tax ($.09 per gallon) is split between the TTFA ($405 million) and other transportation purposes ($63 million).

- The bill establishes an annual limit of $1.6 billion on TTFA nonfederal appropriations for fiscal years 2007-2011.

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– OLS –

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- This legislation does not increase or decrease State revenue.

- Given the significant increase in the level of annual TTFA spending and borrowing, relative to the increase in revenue annually dedicated to the TTFA, the bill will significantly increase total TTFA debt service costs for the ensuing 35-year period.

BILL DESCRIPTION

Assembly Bill No. 2813 (2R) of 2006 proposes to amend the New Jersey Transportation Trust Fund laws to:

(1) Permit the Transportation Trust Fund Authority (TTFA) to issue bonds and refunding bonds having a maturity of up to 31 years. The current maximum term is 21 years.

(2) Increase the TTFA's annual debt limit from $650 million to $1.6 billion for a period of five fiscal years, beginning in FY 2007. (The limit does not cover refunding debt.) In any fiscal year in which the annual appropriation of State funds to the Transportation Trust Fund exceeds $895 million, this limit would be reduced by the amount of that excess. The bill retains the current statutory permission for debt issuance authority that is "unused" in one fiscal year to be carried forward into a subsequent fiscal year, but makes any such carryforward subject to the approval of the Joint Budget Oversight Committee. The legislation permits the TTFA to issue refunding bonds only if the authority first determines that such a refunding will result in a net present value "savings."

(3) Provide for the annual appropriation of the equivalent of $0.105 per gallon (increased from $0.09 per gallon) of the motor fuels tax to the TTF Account, with a minimum credit to the TTF of $483 million annually (increased from $405 million).

(4) Provide that the annual amount of proposed TTFA projects reported by the Commissioner of Transportation on March 1, 2006 and thereafter through March 1, 2010 shall not exceed $1.6 billion and likewise limit, for fiscal years 2007 through 2011, the amount to be appropriated from the TTFA to fund these projects to $1.6 billion annually, exclusive of federal funds.

(5) Reinstate the 13 percent cap, which expired on July 1, 2003, on the portion of the revenues and other nonfederal funds of the authority appropriated in each fiscal year that may be expended on salaries and overhead of the Department of Transportation and New Jersey Transit.

(6) Increase the statutory minimum amount of local aid under the Trust Fund to $175 million. Currently, $150 million is appropriated for this purpose.

(7) Create a Financial Policy Review Board to assure fiscal discipline through the evaluation of TTFA practices and submission of an annual State of Condition of Transportation Financing report.

(8) Clarify the existing statutory obligation of the Commissioner to prepare and submit a Transportation Master Plan, a Statewide Capital Investment Strategy, an Annual Transportation Capital Program, and a TTFA Financial Plan, and add a new requirement that the Commissioner submit a Five-Year Capital Plan. Additionally, in 2008 and 2010, the Commissioner is required to report on permitted maintenance and overhead expenditures.

These changes are intended to permit the TTFA to issue bonds and refunding bonds, and to receive additional revenues, in support of a TTFA program of up to $1.6 billion annually in each of the next five fiscal years, FY 2007 – FY 2011.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) notes that this legislation will affect three areas of transportation finance: TTFA authority to issue debt, the Legislature's general statutory authority to use funds of the TTFA to finance the cost of transportation projects, and the dedication of State revenue to fund the authority.

TTFA Borrowing Authority

The bill increases the statutory annual borrowing limit to $1.6 billion per year, up 146 percent from the current $650 million annual limit, for fiscal years 2007-2011. As in current law, unused annual bonding authority will remain available for use in succeeding years, but the bill newly requires the TTFA to obtain the approval of the Joint Budget Oversight Committee before using "carryforward" bonding. The bill further provides for reduction in the borrowing cap in the amount by which annual appropriations to the TTF exceed $895 million. The bill also increases the maximum final maturity of TTF bonds, including bonds issued to refund existing debt, from 21 years to 31 years.

The outstanding indebtedness of the TTFA is currently about $7.4 billion, with total debt service costs of about $11.1 billion for the period FY 2006-FY 2025. The TTFA has unused authority to issue bonds of about $355 million. The bill will permit an increase in bonding over current law of $4.7 billion, thus making possible the issuance of new debt totaling $8 billion in support of TTFA authorized spending for the period FY 2007-2011. The Executive has testified before the Legislature that it currently plans to issue $6.2 billion in bonds, with estimated total debt service costs of $17.2 billion through FY 2041, to finance TTFA spending authorizations for FY 2007-2011.

Revenue Dedication

Under current statute, the dedication of motor fuels tax revenue to the TTFA is $.09 per gallon, but not less than $405 million. Currently the yield from $.09 cents per gallon is about $468 million. The FY 2006 appropriations act allocates the statutory minimum of $405 million to the TTFA, with the balance allocated to other transportation uses.

The bill increases the annual statutory dedication of motor fuels tax revenue to the TTFA by $.015 per gallon, to $.105 per gallon, and increases the minimum dollar amount so dedicated by $78 million, to $483 million. The OLS notes that the increase in the minimum dollar amount is consistent with current estimates of motor fuels tax revenue, i.e., that each $.01 of tax rate produces about $52 million per year (gasoline @ $.01 per gallon = $44 million, diesel fuel @ $.01 per gallon = $8 million). The OLS also notes that motor fuels tax revenues have increased by about 2 percent annually, and that if this growth rate continues the amount comprising $.105 per gallon would likewise increase. The actual amount allocated to the TTFA will be determined by each annual appropriations act; the Executive projects that an additional $78 million per year will be annually allocated to the TTFA from the motor fuels tax for FY 2007-2011, notwithstanding potential growth in revenue from the tax. The OLS notes that the bill does not affect the present allocation of the currently dedicated $.09 per gallon described above. The OLS further notes that if this bill is enacted, current motor fuels tax revenue from $.03 per gallon on diesel fuel will remain undedicated.

TTFA spending authority

The bill establishes for fiscal years 2007-2011 an annual limitation of $1.6 billion on appropriations of TTFA revenue from nonfederal funds for transportation projects. (There is currently no statutory limit; the amount appropriated in FY 2006 by the annual appropriations act is $1.2 billion.) The bill will thus permit a total 5-year TTFA authorization of $8 billion. The bill further reimposes an annual limit on TTFA nonfederal appropriations for salaries and overhead of 13 percent of the total appropriation; this limit last applied to FY 2004.

Summary

The bill increases significantly both the TTFA's authorization to incur indebtedness and, in allowing that debt to mature over a longer period of time, the total cost of amortizing that newly authorized debt. The bill further increases, relative to recent annual authorizations, the amount that the TTFA can spend for transportation projects. In light of the minimum $78 million increase the bill provides in appropriations to the TTFA to defray all its expenses – debt service and transportation project costs – the bill's result is to enable a five-year transportation project financing program that increases reliance on borrowing and incurs higher debt service costs in order to fund a higher level of outlay. It is probable that after implementation of the five-year authorization to spend and borrow provided by this bill, the annual and aggregate debt service obligation will fully consume dedicated revenues for the ensuing 31 years.

Section:	*Authorities, Utilities, Transportation and Communications*
Analyst:	*Mark Trease* *Associate Fiscal Analyst* *Frank W. Haines III* *Assistant Legislative Budget and Finance Officer*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.

SENATE, No. 1470

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED FEBRUARY 27, 2006

Sponsored by:
Senator RAYMOND J. LESNIAK
District 20 (Union)
Senator JOSEPH V. DORIA, JR.
District 31 (Hudson)

SYNOPSIS

Changes various provisions of “New Jersey Transportation Trust Fund Authority Act.”

CURRENT VERSION OF TEXT

As introduced.

1776

(Sponsorship Updated As Of: 3/7/2006)

AN ACT concerning the New Jersey Transportation Trust Fund Authority and amending and supplementing P.L.1984, c.73 and amending P.L.1987, c.460.

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

1. Section 9 of P.L.1984, c.73 (C.27:1B-9) is amended to read as follows:

9. a. The authority shall have the power and is hereby authorized after November 15, 1984 and from time to time thereafter to issue its bonds, notes or other obligations in principal amounts as in the opinion of the authority shall be necessary to provide for any of its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, notes or other obligations issued by it, whether the bonds, notes, obligations or interest to be funded or refunded have or have not become due; and to provide for the security thereof and for the establishment or increase of reserves to secure or to pay the bonds, notes or other obligations or interest thereon and all other reserves and all costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers; and in addition to its bonds, notes and other obligations, the authority shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds or notes. No resolution or other action of the authority providing for the issuance of bonds, refunding bonds, notes, or other obligations shall be adopted or otherwise made effective by the authority without the prior approval in writing of the Governor and the State Treasurer.

b. Except as may be otherwise expressly provided in the act or by the authority, every issue of bonds or notes shall be general obligations payable out of any revenues or funds of the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. The authority may provide the security and payment provisions for its bonds or notes as it may determine, including (without limiting the generality of the foregoing) bonds or notes as to which the principal and interest are payable from and secured by all or any portion of the revenues of and payments to the authority, and other moneys or funds as the authority shall determine. In addition, the authority may, in anticipation of the issuance of the bonds or the receipt of appropriations, grants, reimbursements or other funds, including without limitation grants from the federal government for federal aid highways or public transportation systems, issue notes, the principal of or interest on which, or both, shall be payable out of the

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

Matter underlined <u>thus</u> is new matter.

proceeds of notes, bonds or other obligations of the authority or appropriations, grants, reimbursements or other funds or revenues of the authority. The authority may also enter into bank loan agreements, lines of credit and other security agreements as authorized pursuant to subsection h. of section 6 of P.L.1984, c.73 (C.27:1B-6) and obtain for or on its behalf letters of credit in each case for the purpose of securing its bonds, notes or other obligations or to provide direct payment of any costs which the authority is authorized to pay by this act and to secure repayment of any borrowings under the loan agreement, line of credit, letter of credit or other security agreement by its bonds, notes or other obligations or the proceeds thereof or by any or all of the revenues of and payments to the authority or by any appropriation, grant or reimbursement to be received by the authority and other moneys or funds as the authority shall determine.

c. Whether or not the bonds and notes are of the form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, the bonds and notes are hereby made negotiable instruments within the meaning of and for all the purposes of said Title 12A.

d. Bonds or notes of the authority shall be authorized by a resolution or resolutions of the authority and may be issued in one or more series and shall bear the date, or dates, mature at the time or times, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources, in the medium of payment, at the place or places within or without the State, and be subject to the terms of redemption (with or without premium) as the resolution or resolutions may provide. Bonds or notes may be further secured by a trust indenture between the authority and a corporate trustee within or without the State. All other obligations of the authority shall be authorized by resolution containing terms and conditions as the authority shall determine.

e. Bonds, notes or other obligations of the authority may be sold at public or private sale at a price or prices and in a manner as the authority shall determine, either on a negotiated or on a competitive basis. Every bond, or refunding bond, issued on or after ⟦the effective date of P.L.1995, c.108 (C.27:1B-25.1 et al.)⟧ <u>May 1, 2006</u> shall mature and be paid no later than ⟦21⟧ <u>31</u> years from the date of the issuance of that bond or refunding bond.

f. Bonds or notes may be issued and other obligations incurred under the provisions of the act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by subsection a. of this section, and without any other proceedings or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by the act.

g. Bonds, notes and other obligations of the authority issued or incurred under the provisions of the act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision or be or constitute a pledge of the faith and credit of the State or of any political subdivision but all bonds, notes and obligations, unless funded or refunded by bonds, notes or other obligations of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in the act. Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from revenues or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on the bonds, notes or other obligations. For the purposes of this subsection, political subdivision does not include the authority.

h. All expenses incurred in carrying out the provisions of the act shall be payable solely from the revenues or funds provided or to be provided under or pursuant to the provisions of the act and nothing in the act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

i. The authority shall minimize debt incurrence by first relying on appropriations and other revenues available to the authority before incurring debt to meet its statutory purposes. Commencing on ⟦the 90th day following the date of enactment of this 1995 amendatory and supplementary act⟧ <u>July 1, 2006</u>, the authority shall not incur debt in any fiscal year in excess of ⟦$650,000,000⟧ <u>$1,600,000,000</u>, except that if that permitted amount of debt, or any portion thereof, is not incurred in a fiscal year it may be incurred in a subsequent fiscal year. Any increase in this limitation shall only occur if so provided for by law. In computing the foregoing limitation as to the amount of debt the authority may incur, the authority may exclude any bonds, notes or other obligations, including subordinated obligations of the authority, issued for refunding purposes.

j. Upon the decision by the authority to issue refunding bonds pursuant to this section, and prior to the sale of those bonds, the authority shall transmit to the Joint Budget Oversight Committee, or its successor, a report that a decision has been made, reciting the basis on which the decision was made, including an estimate of the debt service savings to be achieved and the calculations upon which the authority relied when making the decision to issue refunding bonds. The report shall also disclose the intent of the authority to issue and sell the refunding bonds at public or private sale and the reasons therefor.

k. The Joint Budget Oversight Committee, or its successor, shall have authority to approve or disapprove the sale of refunding bonds as included in each report submitted in accordance with subsection j. of this section. The committee shall approve or disapprove the sale of refunding bonds within 10 business days after physical receipt of the report. The committee shall notify the authority in writing of the approval or disapproval as expeditiously as possible.

l. No refunding bonds shall be issued unless the report has been submitted to and approved by the Joint Budget Oversight Committee, or its successor, as set forth in subsection k. of this section.

m. Within 30 days after the sale of the refunding bonds, the authority shall notify the Joint Budget Oversight Committee, or its successor, of the result of that sale, including the prices and terms, conditions and regulations concerning the refunding bonds, and the actual amount of debt service savings to be realized as a result of the sale of refunding bonds.

n. The Joint Budget Oversight Committee, or its successor, shall, however, review all information and reports submitted in accordance with this section and may, on its own initiative, make observations and recommendations to the authority or to the Legislature, or both, as it deems appropriate.

(cf: P.L.2001, c.258, s.1)

2. Section 21 of P.L.1984, c. 73 (C.27:1B-21) is amended to read as follows:

21. a. There is hereby established a separate fund entitled "Special Transportation Fund." This fund shall be maintained by the State Treasurer and may be held in depositories as may be selected by the treasurer and invested and reinvested as other funds in the custody of the treasurer, in the manner provided by law. The commissioner may from time to time (but not more frequently than monthly) certify to the authority an amount necessary to fund payments made, or anticipated to be made by or on behalf of the department, from appropriations established for or made to the department from revenues or other funds of the authority. The commissioner's certification shall be deemed conclusive for purposes of the act. The authority shall, within 15 days of receipt of the certificate, transfer from available funds of the authority to the treasurer for deposit in the Special Transportation Fund the amount certified by the commissioner, provided that all funds transferred shall only be expended by the department by project pursuant to appropriations made from time to time by the Legislature for the purposes of the act.

b. The department shall not expend any money except as appropriated by law. Commencing with appropriations for the fiscal years beginning on July 1, 1988, the department shall not expend any funds except as are appropriated by specific projects identified by a description of the projects, the county or counties within which they are located, and amounts to be expended on each project, in the annual appropriations act.

c. No funds appropriated, authorized or expended pursuant to this act shall be used to finance the resurfacing of highways by department personnel, where that resurfacing would require the use of more than 100,000 tons of bituminous concrete for that purpose in any calendar year, except that the commissioner may waive this provision when he determines the existence of emergency conditions requiring the use of department personnel for the resurfacing of highways, after the department has effectively reached the 100,000 ton limit.

d. In order to provide the department with flexibility in administering the specific appropriations by project identified in the annual appropriations act, the commissioner may transfer a part of any item to any other item subject to the approval of the Director of the Division of Budget and Accounting and of the Joint Budget Oversight Committee or its successor. Upon approval of the director and the committee, the transfer shall take effect.

e. Any federal funds which become available to the State for transportation projects which have not been appropriated to the department in the annual appropriations act, shall be deemed appropriated to the department and may, subject to approval by the Joint Budget Oversight Committee and the State Treasurer, be expended for any purpose for which such funds are qualified.

f. There shall be no appropriations from the revenues and other funds of the authority for regular and routine maintenance of public highways and components thereof, or operational activities of the department unrelated to the implementation of, and indirect costs associated with, the capital program. The commissioner shall include in his annual budget request sufficient funding to effectuate the purposes of P.L.2000, c.73 (C.27:1B-21.14 et al.).

g. To the extent that salaries or overhead of the department or the New Jersey Transit Corporation are charged to transportation projects, each agency shall keep adequate and truthful personnel records, and time charts to adequately justify each such charge and shall make those records available to the external auditor to the authority.

h. The commissioner shall annually, on or before January 1 of each fiscal year, report to the Governor and the Legislature how much money was expended in the previous fiscal year for salaries and overhead of the department and the New Jersey Transit Corporation. However, the amount expended from the revenues and other funds of the authority for salaries and overhead of the department and the New Jersey Transit Corporation for the fiscal years beginning July 1, 2001, July 1, 2002 and July 1, 2003 shall not exceed 13 percent of the total funds appropriated from the revenues and other nonfederal funds of the authority for those fiscal years.

i. In furtherance of smart growth principles, the department shall limit the funds programmed for major highway capacity expansion in any fiscal year to no more than four percent of the total annual transportation Capital Program. For purposes of this subsection, "major highway capacity expansion" means construction of a new section of roadway or the addition of through travel lanes to an existing State highway where such lanes are designed primarily to increase the car carrying capacity of a State highway for more than one mile. Major highway capacity expansion shall not include: (1) lane additions done primarily at intersections or interchanges intended to increase the safety and capacity at the intersection or interchange; (2) bottleneck eliminations; (3) lane additions or extensions designed for auxiliary purposes including but not limited to speed change (acceleration or deceleration lanes), storage lanes, climbing lanes, bicycle lanes, or any other lanes supplementary to through-traffic movement; (4) lanes added to a bridge to match the number of lanes on each approach to the bridge; (5) collector distributor roads designed to improve roadway safety and operation by separating through traffic from local traffic accessing adjacent land uses; (6) projects in Planning Areas 1 or 2 of the State Development and Redevelopment Plan adopted pursuant to P.L. 1985, c.398 (C.52:18A-196 et seq.), which are intended to support smart growth, including but not limited to brownfields redevelopment, or urban revitalization; (7) projects in other Planning Areas of the State Development and Redevelopment Plan adopted pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) which support designated centers or growth areas that are endorsed by the State Planning Commission; or (8) any bridge projects.

(cf: P.L.2000, c.73, s.20)

3. Section 20 of P.L.1984, c.73 (C.27:1B-20) is amended to read as follows:

20. There is hereby established in the General Fund an account entitled "Transportation Trust Fund Account." During the fiscal year beginning July 1, 1984 and during each succeeding fiscal year in which the authority has bonds, notes or other obligations outstanding, the treasurer shall credit to this account:

a. An amount equivalent to the revenue derived from **[**$0.09**]** $0.105 per gallon from the tax imposed on the sale of motor fuels pursuant to chapter 39 of Title 54 of the Revised Statutes, as provided in Article VIII, Section II, paragraph 4 of the State Constitution, provided, however, such amount during any fiscal year shall not be less than **[**$405,000,000**]** $483,000,000;

b. (Deleted by amendment, P.L.2000, c.73).

c. An amount equivalent to moneys received by the State in accordance with contracts entered into with toll road authorities or other State agencies, provided that effective with the fiscal year beginning July 1, 1988 the amount so credited shall not be less than $24,500,000.00 in any fiscal year.

The treasurer shall also credit to this account, in accordance with a contract between the treasurer and the authority, an amount equivalent to the sum of the revenues due from the increase of fees for motor vehicle registrations collected pursuant to the amendment to R.S.39:3-20 made by this act and from the increase in the tax on diesel fuels imposed pursuant to the amendment to R.S.54:39-27 made by this act and by P.L.1987, c.460, provided that the total amount credited during the fiscal year beginning July 1, 1984 shall not be less than $20,000,000.00 and that the total amount credited during the fiscal year beginning July 1, 1985 and during every fiscal year thereafter shall not be less than $30,000,000.00.

In addition to the amounts credited to the account by this section, commencing with the fiscal year beginning July 1, 1995 and every fiscal year thereafter, there shall be appropriated from the General Fund such additional amounts as are necessary to carry out the provisions of this act and beginning July 1, 2000 the fees collected pursuant to subsection a. of section 68 of P.L.1990, c.8 (C.17:33B-63) shall be credited to the account for the purposes of this act, provided, however, the amount credited from such fees during any fiscal year shall not be less than $60,000,000.

d. **[**After approval by the voters of the constitutional amendment proposed in Senate Committee Substitute for Senate Concurrent Resolution No. 1 of 2000 or Assembly Concurrent Resolution No. 116 of 2000, in**]** In addition to the amount credited in subsection a. of this section, beginning January 1 following approval by the voters an amount equivalent to the revenue derived from the tax imposed on the sale of petroleum products pursuant to P.L.1990, c.42 (C.54:15B-1 et seq.), provided, however, such amount shall not be less than $100,000,000 in the period January 1 through June 30 following approval by the voters and shall not be less than $200,000,000 in any fiscal year thereafter and for the fiscal year commencing July 1, 2001 and for each fiscal year thereafter an amount equivalent to the revenue derived from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) on the sale of new motor vehicles, provided, however, that such amount shall not be less than **[**$80,000,000 for the fiscal year commencing July 1, 2001, not less than $140,000,000 for the fiscal year commencing July 1, 2002, and not less than**]** $200,000,000 for the fiscal year commencing July 1, 2003 and for each fiscal year thereafter, as provided in Article VIII, Section II, paragraph 4 of the State Constitution.

No later than the fifth business day of the month following the month in which a credit has been made, the treasurer shall pay to

the authority, for its purposes as provided herein, the amounts then credited to the Transportation Trust Fund Account, provided that the payments to the authority shall be subject to and dependent upon appropriations being made from time to time by the Legislature of the amounts thereof for the purposes of the act.
(cf: P.L.2000, c.73, s.19)

4. Section 8 of P.L.1987, c.460 (C.27:1B-21.1) is amended to read as follows:

8. a. ⟦Commencing with the report of the commissioner, as may be amended, required to be submitted pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) on or before March 1, 2000 for the fiscal year commencing July 1, 2000 the amount reported by the commissioner for proposed projects to be financed shall not exceed $900,000,000 and for the fiscal year beginning July 1, 2001 through the fiscal year beginning July 1, 2003 the annual amounts shall not exceed $950,000,000, all amounts exclusive of federal funds.⟧ Commencing with the report of the commissioner, as may be amended, required to be submitted pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) on or before March 1, 2006 and on each succeeding March 1 thereafter, the annual amount so reported by the commissioner for proposed projects shall not exceed $1,600,000,000 exclusive of federal funds.

b. For the fiscal year beginning on July 1, ⟦2000⟧ 2006 and for each fiscal year thereafter, the total annual amount authorized to be appropriated from the revenues and other nonfederal funds of the New Jersey Transportation Trust Fund Authority for the projects listed in the appropriations act pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21) shall not exceed ⟦$900,000,000 and for the fiscal year beginning July 1, 2001 through the fiscal year beginning July 1, 2003 the annual amounts shall not exceed $950,000,000⟧ $1,600,000,000, all amounts exclusive of federal funds.

c. (Deleted by amendment, P.L.1991, c.40.)

d. (Deleted by amendment, P.L.1992, c.10).

e. The State Auditor shall provide for a unified annual audit of expenditures from the Special Transportation Fund, established by section 21 of P.L.1984, c.73 (C.27:1B-21), in order to determine that these funds are expended for costs eligible for funding from the authority and in a manner consistent with appropriations made by the Legislature. The findings of such audits shall be transmitted to the presiding officer of each House of the Legislature, and to the Chair of the Senate Budget and Appropriations Committee, the Senate Transportation Committee, the Assembly Appropriations Committee, and the Assembly Transportation and Communications Committee or their successors.

f. The State Auditor shall review bond issuances of the authority and report to the Joint Budget Oversight Committee and to the members of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successors, on the status of the bonds of the authority and projects financed from the proceeds of the bonds. The report shall include the investment status of all unexpended bond proceeds and provide a description of any bond issues expected during a fiscal year, including type of issue, estimated amount of bonds to be issued and the expected month of sale.

(cf: P.L.2000, c.73, s.21)

5. (New section) There is hereby created in the Executive Branch of the State Government, a body corporate and politic, with corporate succession, to be known as the Financial Policy Review Board. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the board is hereby allocated within the Department of Transportation, but, notwithstanding that allocation, the board shall be independent of any supervision or control by the department or by any body or officer thereof. The board is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the excise by the board of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

The board shall be comprised of five public members with experience in transportation finance and policy. The Governor shall appoint each of the members, with the advice and consent of the Senate. No more than three of the members shall be of the same political party. Each member shall serve for a four-year term and shall serve until the member’s successor is appointed and qualified; provided, however, that in order to achieve non-concurrent terms, of the members first appointed pursuant to this section, one member shall serve for four years; while two members shall serve for three years each, and the remaining two members shall serve for two years each. The Financial Policy Review Board shall be deemed to be constituted immediately upon appointment and qualification in the manner provided in this section of at least three members.

The purpose of the Financial Policy Review Board is to assure fiscal discipline through evaluating the financial condition and performance of the funds of the Transportation Trust Fund Authority and by evaluating the level of the annual capital program to ensure that spending does not exceed the financial resources of the Transportation Trust Fund Authority.

Beginning on February 1, 2007, the board shall submit to the Governor, the Legislature, and the commissioner on an annual basis the State of Condition of Transportation Financing report. The report will be based on the board’s review of the State’s fiscal year final expenditures from the preceding fiscal year ending June 30 of each year, including bonding and cash outlay data from the annual independent audit of the Transportation Trust Fund Authority.

6. Section 25 of P.L.1984, c.73 (C.27:1B-25) is amended to read as follows:

25. a. Notwithstanding the provisions of subtitle 4 of Title 27 of the Revised Statutes and P.L.1946, c.301 (C.27:15A-1 et seq.), the commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate to counties and municipalities funds for the planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways and the planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and of other transportation projects which a county or municipality may be authorized by law to undertake. In the case of a county or municipality for which an allocation has been made for the federal fiscal year beginning October 1, 1983, of an amount of federal aid for the federal aid urban system, as defined in 23 U.S.C. s.103, the amount of State aid allocated under this section in any fiscal year shall not be less than the amount of federal aid so allocated, together with the amount of matching funds required under federal law. No allocation shall be made to a county or municipality without certification by the commissioner: (1) that there exists with respect to that county or municipality a comprehensive plan, or plans, which he has approved, for the effective allocation, utilization and coordination of available federal and State transportation aid, and (2) that the county or municipality has agreed that State aid provided under this section is provided in lieu of federal aid for the federal aid urban system program and that any federal aid for the federal aid urban system program attributable to the area will be programmed by the Department of Transportation for projects of regional significance. In any year in which insufficient funds have been appropriated to meet the minimum county allocations established in this section, or if no appropriation is provided, the commissioner shall determine on a prorated basis the amount of the deficiency for each county having a minimum allocation and allocate from funds available under the federal aid urban system program sufficient funds to meet the minimum allocations.

b. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law **[**and pursuant to the provisions of subsection d. of this section**]**, allocate at his discretion State aid to counties and municipalities for **[**public highways under their jurisdiction and for emergency**]** transportation projects, except that the amount to be appropriated for this program shall be **[**15%**]** 10% of the total amount appropriated **[**pursuant to the provisions of paragraph (2) of subsection d. of this section] for the total county and municipal aid programs. This State aid shall be set aside prior to any formula allocations provided for in subsections c., d., and e. of this section.

c. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law and pursuant to the provisions of [subsection] subsections b. and d. of this section, allocate State aid to municipalities for public highways under their jurisdiction[, except that the amount to be appropriated for this purpose shall be 85% of the amount appropriated pursuant to the provisions of paragraph (2) of subsection d. of this section]. The amount to be appropriated shall be allocated on the basis of the following distribution factor:

$$DF = \frac{Pc}{Ps} + \frac{Cm}{Sm}$$

where, DF equals the distribution factor

Pc equals county population

Ps equals State population

Cm equals municipal road mileage within the county

Sm equals municipal road mileage within the State.

After the amount of aid has been allocated based on the above formula, the commissioner shall determine priority for the funding of municipal projects within each county, based upon criteria relating to volume of traffic, safety considerations, growth potential, readiness to obligate funds and local taxing capacity. In addition to the above criteria used in determining priority of funding of municipal projects in each county, the commissioner shall consider whether a project is intended to remedy hazardous conditions as identified for the purposes of providing transportation pursuant to N.J.S.18A:39-1.2 for school pupils or to improve pedestrian safety.

For the purposes of this subsection, (1) "population" means the official population count as reported by the New Jersey Department of Labor; and (2) "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the department.

d. There shall be appropriated at least [$30,000,000.00 in] $175,000,000 for the fiscal year commencing July 1, 2006 and for each fiscal year thereafter, for the purposes provided herein and in subsections b. and c. of this section. (1) Of that appropriation, the commissioner shall allocate $5,000,000.00 as State aid to any municipality qualifying for aid pursuant to the provisions of

P.L.1978, c.14 (C.52:27D-178 et seq.). The commissioner shall allocate the aid to each municipality in the same proportion that the municipality receives aid under P.L.1978, c.14. (2) The remaining amount of the appropriation shall be allocated pursuant to the provisions of [subsections b. and] subsection c. of this section.

e. The commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate additional funding to the Local County Aid Program for public highway projects, in accordance with a formula similar to that provided for in subsection c. of this section, except that Cm equals road mileage under county jurisdiction and Sm equals total county road mileage within the State.

(cf: P.L.2005, c.158, s.4)

7. Section 9 of P.L.1995, c.108 (C.27:1B-25.1) is amended to read as follows:

9. [State aid] Aid to counties and municipalities [pursuant to section 25 of P.L.1984, c.73 (C.27:1B-25),] administered by the department may, at the discretion of the commissioner, be disbursed to any individual county or municipality on a grant basis or on a cost reimbursement basis. Distribution of the portion of the grant provided initially to a county or municipality may be contingent on its performance in spending prior grants.

(cf: P.L.1995, c.108, s.9)

8. This act shall take effect immediately.

STATEMENT

This bill amends and supplements the New Jersey Transportation Trust Fund laws to:

(1) Permit the Transportation Trust Fund authority (TTFA) to issue bonds and refunding bonds after May 1, 2006 for a period of 31 years. The current maximum term is 21 years.

(2) Increase the TTFA’s annual debt limit from $650,000,000 to $1,600,000,000. The carryforward provisions and the exemption of refunding debt from this limit are not affected by this change.

(3) Provide for the crediting of an amount equivalent to 10.5 cents from the motor fuels tax, rather than 9 cents of that tax, to the Transportation Trust Fund Account.

(4) Provide that the annual amount of proposed TTFA projects reported by the Commissioner of Transportation from March 1, 2006 and each March 1 thereafter shall not exceed $1,600,000,000 and likewise to limit the amount to be appropriated for this purpose from fiscal year 2007 and each fiscal year thereafter to $1,600,000,000 annually, exclusive of federal funds.

(5) Increase the statutory minimum amount of local aid under the Trust Fund to $175 million. $150 million is currently appropriated for this purpose.

(6) Create a Financial Policy Review Board to assure fiscal discipline by evaluating TTFA practices and to submit an annual State of Condition of Transportation Financing report.

These changes will permit the TTFA to issue bonds and refunding bonds, and to receive additional revenues, sufficient to provide a TTFA program of $1.6 billion annually.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1470

(with committee amendments)

STATE OF NEW JERSEY

DATED: MARCH 6, 2006

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1470, with committee amendments.

As amended, this bill amends and supplements the New Jersey Transportation Trust Fund laws to:

(1) Permit the Transportation Trust Fund Authority (TTFA) to issue bonds and refunding bonds for a period of 31 years. The current maximum term is 21 years.

(2) Increase the TTFA's annual debt limit from $650,000,000 to $1,600,000,000 for a period of five fiscal years, beginning in FY 2007. This limit would be reduced in any fiscal year in which the annual appropriation of State funds to the Transportation Trust Fund exceeds $895,000,000 by the amount that the appropriation exceeds $895,000,000. Additionally, any "unused" debt limitation may be carried forward into a subsequent fiscal year, subject to the approval of the Joint Budget Oversight Committee (JBOC).

(3) Provide that no refunding bonds shall be issued unless the TTFA first determines that such a refunding will result in a net present value "savings."

(4) Provide for the crediting of an amount equivalent to 10.5 cents per gallon from the motor fuels tax to the Transportation Trust Fund Account, an increase of 1.5 cents over the current 9 cents per gallon dedication.

(5) Reinstate the 13 percent cap, which expired on July 1, 2003, on the amount of Department of Transportation (DOT) and New Jersey Transit (NJT) salaries and overhead which may be charged to transportation projects. The cap applies to the revenues and other nonfederal funds of the authority appropriated in each fiscal year.

(6) Provide that the annual amount of proposed TTFA projects reported by the Commissioner of Transportation on March 1, 2006, and each March 1 thereafter, shall not exceed $1,600,000,000 and likewise limit the amount to be appropriated for this purpose beginning in fiscal year 2007, and each fiscal year thereafter, to $1,600,000,000 annually, exclusive of federal funds.

(7) Increase the statutory minimum amount of local aid under the Trust Fund to $175 million. Currently, $150 million is appropriated for this purpose.

(8) Create a Financial Policy Review Board to assure fiscal discipline through the evaluation of TTFA practices and submission of an annual State of Condition of Transportation Financing report.

(9) Require the Commissioner to submit to the Legislature and Governor, the following reports: a Transportation Master Plan, a Statewide Capital Investment Strategy, an Annual Transportation Capital Program, a TTFA Financial Plan, and a Five-Year Capital Plan. Additionally, in 2007 and 2009, the Commissioner is required to report on permitted maintenance and overhead expenditures.

These changes will permit the TTFA to issue bonds and refunding bonds, and to receive additional revenues, sufficient to provide a TTFA program of $1.6 billion annually in each of the next five fiscal years, FY 2007 – FY 2011.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) Reduce the TTFA's annual debt issuance in any fiscal year by the amount by which the annual appropriation of State funds exceeds $895,000,000.

(2) Permit any "unused" portion of the annual debt limitation to be carried forward into subsequent fiscal years, subject to JBOC approval.

(3) Provide that no refunding bonds shall be issued unless the TTFA determines the issuance will result in a net present value savings.

(4) Reinstate the 13 percent cap on the amount of DOT and NJT salaries and overhead which may be charged to transportation projects.

(5) Cap major highway capacity expansion to an average of four percent over five years.

(6) Require the Commissioner to prepare and submit certain reports to the Legislature and Governor, including a Transportation Master Plan.

(7) Repeal the Transportation Trust Fund Advisory Board.

FISCAL IMPACT:

This bill increases the amount of motor fuels tax revenue that is statutorily dedicated to the Transportation Trust Fund Account by 1.5 cents per gallon to 10.5 cents per gallon. This change is expected to realize a $78,000,000 increase (from $405,000,000 currently to $483,000,000) in the amount of motor fuels tax revenue dedicated to the TTF. As the bill does not change State revenues or the rates of tax imposed under the motor fuels tax, this proposal will result in a corresponding reduction in General Fund resources available for other purposes.

The bill would permit up to $8 billion in borrowing to support transportation projects over the next five years. The increase in the bonding cap to $1.6 billion annually and the extension of the maximum maturity of new refunding bonds from 21 to 31 years will likely extend the time period during which revenue from existing sources will be required for debt service payments.

The bill would expand the size of the annual capital program to $1.6 billion, which is in contrast to both the current absence of a cap and the FY2006 authorized capital program of $1.2 billion.

The bill also increases the statutory minimum amount of local aid under the Trust Fund to $175 million. Currently, $150 million is appropriated for this purpose.

STATEMENT TO

[First Reprint]
SENATE, No. 1470

with Senate Floor Amendments
(Proposed By Senator LESNIAK)

ADOPTED: MARCH 13, 2006

These floor amendments remove the provisions concerning “smart growth” from the bill.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1470

STATE OF NEW JERSEY
212th LEGISLATURE

DATED: APRIL 21, 2006

SUMMARY

Synopsis:	Changes various provisions of "New Jersey Transportation Trust Fund Authority Act."
Type of Impact:	Increased annual appropriation from General Fund to Transportation Trust Fund Account; increased authorization for annual appropriations from Transportation Trust Fund Authority (TTFA); increase in TTFA borrowing.
Agencies Affected:	Department of the Treasury, Department of Transportation, Transportation Trust Fund Authority.

Office of Legislative Services Estimate

Fiscal Impact	**Year 1**	**Year 2**	**Year 3**
Transportation Trust Fund Authority:			
Revenue:	$78 million increase annually		
Capital Program:	$1.6 billion annually		
Debt Service:	Indeterminate significant increase		

- The bill authorizes the Transportation Trust Fund Authority (TTFA) to incur $1.6 billion in new debt annually for fiscal years 2007-2011, an increase of $950 million per year and $4.75 billion in total over current limits, and increases the maximum maturity of TTFA bonds by 10 years, from 21 to 31 years.

- The bill increases the annual amount of motor fuels tax dedicated to the TTFA by $.015 per gallon, from $.09 to $.105, and increases the minimum dollar amount so dedicated by $78 million, from $405 million to $483 million. Under recent annual appropriations acts, the revenue from the currently dedicated portion of the motor fuels tax ($.09 per gallon) is split between the TTFA ($405 million) and other transportation purposes ($63 million).

- The bill establishes an annual limit of $1.6 billion on TTFA nonfederal appropriations for fiscal years 2007-2011.

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- This legislation does not increase or decrease State revenue.

- Given the significant increase in the level of annual TTFA spending and borrowing, relative to the increase in revenue annually dedicated to the TTFA, the bill will significantly increase total TTFA debt service costs for the ensuing 35-year period.

BILL DESCRIPTION

Senate Bill No. 1470 (1R) of 2006 proposes to amend the New Jersey Transportation Trust Fund laws to:

(1) Permit the Transportation Trust Fund Authority (TTFA) to issue bonds and refunding bonds having a maturity of up to 31 years. The current maximum term is 21 years.

(2) Increase the TTFA's annual debt limit from $650 million to $1.6 billion for a period of five fiscal years, beginning in FY 2007. (The limit does not cover refunding debt.) In any fiscal year in which the annual appropriation of State funds to the Transportation Trust Fund exceeds $895 million, this limit would be reduced by the amount of that excess. The bill retains the current statutory permission for debt issuance authority that is "unused" in one fiscal year to be carried forward into a subsequent fiscal year, but makes any such carryforward subject to the approval of the Joint Budget Oversight Committee. The legislation permits the TTFA to issue refunding bonds only if the authority first determines that such a refunding will result in a net present value "savings."

(3) Provide for the annual appropriation of the equivalent of $0.105 per gallon (increased from $0.09 per gallon) of the motor fuels tax to the TTF Account, with a minimum credit to the TTF of $483 million annually (increased from $405 million).

(4) Provide that the annual amount of proposed TTFA projects reported by the Commissioner of Transportation on March 1, 2006 and thereafter through March 1, 2010 shall not exceed $1.6 billion and likewise limit, for fiscal years 2007 through 2011, the amount to be appropriated from the TTFA to fund these projects to $1.6 billion annually, exclusive of federal funds.

(5) Reinstate the 13 percent cap, which expired on July 1, 2003, on the portion of the revenues and other nonfederal funds of the authority appropriated in each fiscal year that may be expended on salaries and overhead of the Department of Transportation and New Jersey Transit.

(6) Increase the statutory minimum amount of local aid under the Trust Fund to $175 million. Currently, $150 million is appropriated for this purpose.

(7) Create a Financial Policy Review Board to assure fiscal discipline through the evaluation of TTFA practices and submission of an annual State of Condition of Transportation Financing report.

(8) Clarify the existing statutory obligation of the Commissioner to prepare and submit a Transportation Master Plan, a Statewide Capital Investment Strategy, an Annual Transportation Capital Program, and a TTFA Financial Plan, and add a new requirement that the Commissioner submit a Five-Year Capital Plan. Additionally, in 2008 and 2010, the Commissioner is required to report on permitted maintenance and overhead expenditures.

These changes are intended to permit the TTFA to issue bonds and refunding bonds, and to receive additional revenues, in support of a TTFA program of up to $1.6 billion annually in each of the next five fiscal years, FY 2007 – FY 2011.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) notes that this legislation will affect three areas of transportation finance: TTFA authority to issue debt, the Legislature's general statutory authority to use funds of the TTFA to finance the cost of transportation projects, and the dedication of State revenue to fund the authority.

TTFA Borrowing Authority

The bill increases the statutory annual borrowing limit to $1.6 billion per year, up 146 percent from the current $650 million annual limit, for fiscal years 2007-2011. As in current law, unused annual bonding authority will remain available for use in succeeding years, but the bill newly requires the TTFA to obtain the approval of the Joint Budget Oversight Committee before using "carryforward" bonding. The bill further provides for reduction in the borrowing cap in the amount by which annual appropriations to the TTF exceed $895 million. The bill also increases the maximum final maturity of TTF bonds, including bonds issued to refund existing debt, from 21 years to 31 years.

The outstanding indebtedness of the TTFA is currently about $7.4 billion, with total debt service costs of about $11.1 billion for the period FY 2006-FY 2025. The TTFA has unused authority to issue bonds of about $355 million. The bill will permit an increase in bonding over current law of $4.7 billion, thus making possible the issuance of new debt totaling $8 billion in support of TTFA authorized spending for the period FY 2007-2011. The Executive has testified before the Legislature that it currently plans to issue $6.2 billion in bonds, with estimated total debt service costs of $17.2 billion through FY 2041, to finance TTFA spending authorizations for FY 2007-2011.

Revenue Dedication

Under current statute, the dedication of motor fuels tax revenue to the TTFA is $.09 per gallon, but not less than $405 million. Currently the yield from $.09 cents per gallon is about $468 million. The FY 2006 appropriations act allocates the statutory minimum of $405 million to the TTFA, with the balance allocated to other transportation uses.

The bill increases the annual statutory dedication of motor fuels tax revenue to the TTFA by $.015 per gallon, to $.105 per gallon, and increases the minimum dollar amount so dedicated by $78 million, to $483 million. The OLS notes that the increase in the minimum dollar amount is consistent with current estimates of motor fuels tax revenue, i.e., that each $.01 of tax rate produces about $52 million per year (gasoline @ $.01 per gallon = $44 million, diesel fuel @ $.01 per gallon = $8 million). The OLS also notes that motor fuels tax revenues have increased by about 2 percent annually, and that if this growth rate continues the amount comprising $.105 per gallon would likewise increase. The actual amount allocated to the TTFA will be determined by each annual appropriations act; the Executive projects that an additional $78 million per year will be annually allocated to the TTFA from the motor fuels tax for FY 2007-2011, notwithstanding potential growth in revenue from the tax. The OLS notes that bill does not affect the present allocation of the currently dedicated $.09 per gallon described above. The OLS further notes that if this bill is enacted, current motor fuels tax revenue from $.03 per gallon on diesel fuel will remain undedicated.

TTFA spending authority

The bill establishes for fiscal years 2007-2011 an annual limitation of $1.6 billion on appropriations of TTFA revenue from nonfederal funds for transportation projects. (There is currently no statutory limit; the amount appropriated in FY 2006 by the annual appropriations act is $1.2 billion.) The bill will thus permit a total 5-year TTFA authorization of $8 billion. The bill further reimposes an annual limit on TTFA nonfederal appropriations for salaries and overhead of 13 percent of the total appropriation; this limit last applied to FY 2004. The bill also restricts the percentage of the five year total authorization that can fund major highway capacity expansion to four percent.

Summary

The bill increases significantly both the TTFA's authorization to incur indebtedness and, in allowing that debt to mature over a longer period of time, the total cost of amortizing that newly authorized debt. The bill further increases, relative to recent annual authorizations, the amount that the TTFA can spend for transportation projects. In light of the minimum $78 million increase the bill provides in appropriations to the TTFA to defray all its expenses – debt service and transportation project costs – the bill's result is to enable a five-year transportation project financing program that increases reliance on borrowing and incurs higher debt service costs in order to fund a higher level of outlay. It is probable that after implementation of the five-year authorization to spend and borrow provided by this bill, the annual and aggregate debt service obligation will fully consume dedicated revenues for the ensuing 31 years.

Section:	*Authorities, Utilities, Transportation and Communications*
Analyst:	*Mark Trease* *Associate Fiscal Analyst* *Frank W. Haines III* *Assistant Legislative Budget and Finance Officer*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.