

[First Reprint]
SENATE, No. 29

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JUNE 21, 2010

Sponsored by:

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Senator JOSEPH M. KYRILLOS, JR.

District 13 (Middlesex and Monmouth)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

SYNOPSIS

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

CURRENT VERSION OF TEXT

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

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

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

3

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

6

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate amendments adopted in accordance with Governor's recommendations July 8, 2010.

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

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

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

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

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

27

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

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

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

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

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

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

1 e. Based on standards adopted by the commissioner,
2 recommend to the commissioner, who is hereby granted the
3 authority to effectuate those recommendations, that certain school
4 districts be required to enter arrangements with one or more other
5 school districts or educational services commissions for the
6 consolidation of the district's administrative services;

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

11 g. Eliminate districts located in the county that are not
12 operating schools on the effective date of P.L.2009, c.78 (C.18A:8-
13 43 et al.), in accordance with a plan and schedule included in the
14 plan submitted to and approved by the commissioner;

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

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

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

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

46 l. Review all school budgets of the school districts within the
47 county, and may, pursuant to section 5 of P.L.1996, c.138
48 (C.18A:7F-5), disapprove a portion of a school district's proposed

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (cf: P.L.2009, c.78, s.10)]¹

35

36 ¹[3.] 2.¹ Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended
37 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26

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

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

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

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

41

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

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

1 provided in subsection e. of section 4 of P.L.2007, c.62 (C.18A:7F-
2 39). the tax levy growth limitation calculated as follows: the sum of
3 the prebudget year adjusted tax levy and the adjustment for
4 increases in enrollment multiplied by **four** ¹~~2.9~~ 2.0 percent,
5 and adjustments for ¹~~["a reduction in total unrestricted State aid~~
6 ~~from the prebudget year,]"~~ an increase in health care costs,
7 ¹~~["beginning in the 2008-2009 school year, amounts approved by a~~
8 ~~waiver granted by the commissioner pursuant to section 4 of~~
9 ~~P.L.2007, c.62 (C.18A:7F-39), and, for the 2010-2011 school year,]"~~
10 and¹ increases in amounts for certain normal and accrued liability
11 pension contributions set forth in sections 1 and 2 of P.L.2009, c.19
12 amending section 24 of P.L.1954, c.84 (C.43:15A-24) and section
13 15 of P.L.1944, c.255 (C.43:16A-15) for the year set forth in those
14 sections.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 e. A school district that has not been granted approval ¹[for a
29 waiver pursuant to this section] to exceed the cap pursuant to
30 subsection c. of this section¹, may add to its adjusted tax levy in any
31 one of the next three succeeding budget years, the amount of the
32 difference between the maximum allowable amount to be raised by
33 taxation for the current school budget year and the actual amount to
34 be raised by taxation for the current school budget year.

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

36
37 ¹[7.] 6.¹ Section 3 of P.L.2007, c.260 (C.18A:7F-45) is amended
38 to read as follows:

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

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

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

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

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

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

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

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

11 "Commissioner" means the Commissioner of Education;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4

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

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

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

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

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

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

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

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

1 in excess of five years. The agreement shall be recorded as an
2 expenditure of the General Fund of the district. The commissioner
3 shall approve the agreement only upon a demonstration by the
4 district that the lease purchase payments and any operating
5 expenses related to the agreement can be included within the
6 district's [net budget spending growth limitation and will not result
7 in the need for approval by the voters or board of school estimate,
8 as appropriate, of additional spending proposals to maintain
9 existing instructional programs and extracurricular activities] tax
10 levy growth limitation ¹and will not result in the need for approval
11 by the voters or board of school estimate, as appropriate, of
12 additional spending proposals to maintain existing instructional
13 programs and extracurricular activities¹. If the commissioner
14 cannot approve the agreement, the board of education may frame a
15 separate question to authorize the lease purchase agreement and
16 obtain voter or board of school estimate approval to enter into the
17 agreement. A district may, without separate prior approval of the
18 commissioner, also acquire equipment through a lease purchase
19 agreement not in excess of five years or in the case of a lease
20 purchase agreement entered into for the acquisition of school buses
21 not in excess of 10 years, provided that the amount of the first
22 installment and each subsequent installment for the lease purchase
23 payments is included in the budget that is advertised and submitted
24 for approval to the voters of the district or the board of school
25 estimate, as appropriate. As used herein, a "lease purchase
26 agreement" refers to any agreement which gives the board of
27 education as lessee the option of purchasing the leased equipment
28 or improvements or additions to existing school buildings during or
29 upon termination of the lease, with credit toward the purchase price
30 of all or part of rental payments which have been made by the board
31 of education in accordance with the lease. As part of such a
32 transaction, the board of education may transfer or lease land or
33 rights in land, including any building thereon, after publicly
34 advertising for proposals for the transfer for nominal or fair market
35 value, to the party selected by the board of education, by
36 negotiation or otherwise, after determining that the proposal is in
37 the best interest of the taxpayers of the district, to construct or to
38 improve and to lease or to own or to have ownership interests in the
39 site and the school building to be leased pursuant to such lease
40 purchase agreement, notwithstanding the provisions of any other
41 law to the contrary. The land and any building thereon which is
42 described in a lease purchase agreement entered into pursuant to
43 this amendatory act, shall be deemed to be and treated as property
44 of the school district, used for school purposes pursuant to
45 R.S.54:4-3.3, and shall not be considered or treated as property
46 leased to another whose property is not exempt, and shall not be
47 assessed as real estate pursuant to section 1 of P.L.1949, c.177
48 (C.54:4-2.3). Any lease purchase agreement authorized by this

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

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

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

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

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

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

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

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

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

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

37

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

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

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

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

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

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

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

11

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

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

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

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

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

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

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

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

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

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

6 (6) increases in amounts for certain normal and accrued liability
7 pension contributions set forth in sections 1 and 2 of P.L.2009, c.19
8 amending section 24 of P.L.1954, c.84 (C.43:15A-24) and section
9 15 of P.L.1944, c.255 (C.43:16A-15) equal to that portion of the
10 actual increase in normal and accrued liability pension contributions
11 for the budget year that is in excess of **[four]** 2.9 percent of the
12 normal and accrued liability pension contributions in the prior year**]**
13 by taxation for capital expenditures, including debt service as
14 defined by law; increases in pension contributions and accrued
15 liability for pension contributions in excess of 2.0%; increases in
16 health care costs equal to that portion of the actual increase in total
17 health care costs for the budget year that is in excess of 2.0% of the
18 total health care costs in the prior year, but is not in excess of the
19 product of the total health care costs in the prior year and the
20 average percentage increase of the State Health Benefits Program,
21 P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually determined by
22 the Division of Pensions and Benefits in the Department of the
23 Treasury; and extraordinary costs incurred by a local unit directly
24 related to a declared emergency, as defined by regulation
25 promulgated by the Commissioner of the Department of
26 Community Affairs, in consultation with the Commissioner of
27 Education, as appropriate¹.

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

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

41

42 ¹**[**11.**]** 10¹ Section 11 of P.L.2007, c.62 (C.40A:4-45.46) is
43 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37

38 ¹【12.】 11.¹ Section 47 of P.L.2007, c.62 is amended to read as
39 follows:

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

S29 [1R] SWEENEY

31

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

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

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

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

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

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

7

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

9 applicable to the next local budget year following enactment.