P.L.2010, CHAPTER 44, approved July 13, 2010
Senate, No. 29 (First Reprint)

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

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

1. Section 1 of P.L.2009, c.80 (C.18A:6-114) is amended to read as follows:
   1. a. In counties in which there is located a municipality that had a population of 60,000 persons or more, as reported in the latest federal decennial census published prior to the enactment of this act, the board of education of each district that is a district factor group A or B school district that also is a kindergarten through grade 12 district with a concentration of at-risk pupils greater than 40%, in conjunction with the local governing body of the municipality in which the district is located, shall develop a plan for a comprehensive program of after school activities for students enrolled in the district.
   b. The plan shall include, but need not be limited to, the following:
      (1) the goals and objectives of the program and the ways in which it will serve the needs and interests of the students in the district;
      (2) a detailed description of the recreational, academic and civic enrichment activities that will be offered pursuant to the program;
      (3) the background and qualifications of personnel who will direct and supervise the program;
      (4) a schedule of the days and hours during which the program will operate;
      (5) the criteria which will be utilized to determine eligibility for student participation in the program;
      (6) an estimate of the number of students who will be served by the program;
      (7) an estimate of the overall cost of the program and the amount of general fund tax levy required to be raised by the district to support the program; and
      (8) any other information which the board determines to be necessary.

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:

Senate amendments adopted in accordance with Governor's recommendations July 8, 2010.
c. After the plan has been developed, the board of education, in conjunction with the local governing body, shall conduct two public hearings to receive community input on the plan.

d. After the plan for the comprehensive program of after school activities has been adopted by resolution of the board of education, the amount of any additional general fund tax levy required to be raised by the district to implement the program required pursuant to this act shall be submitted to the voters of the district or the board of school estimate, as appropriate; except that the amount of any additional general fund tax levy shall not exceed $2,000,000. If approved by the voters or the board of school estimate, the amount so approved shall be assessed, levied and collected in the manner provided by law. If the voters or the board of school estimate does not approve the additional general fund tax levy, the district shall not be required to implement the plan developed pursuant to this act.

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

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

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

(3) N.J.S.18A:7-8 is amended to read as follows:

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

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

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

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

d. Promote administrative and operational efficiencies and cost savings within the school districts in the county while ensuring that the districts provide a thorough and efficient system of education;
e. Based on standards adopted by the commissioner, recommend to the commissioner, who is hereby granted the authority to effectuate those recommendations, that certain school districts be required to enter arrangements with one or more other school districts or educational services commissions for the consolidation of the district’s administrative services;
f. Recommend to the commissioner the elimination of laws the executive county superintendent determines to be unnecessary State education mandates, other than the categories of laws set forth in section 3 of P.L.1996, c.24 (C.52:13H-3);
g. Eliminate districts located in the county that are not operating schools on the effective date of P.L.2009, c.78 (C.18A:8-43 et al.), in accordance with a plan and schedule included in the plan submitted to and approved by the commissioner;
h. No later than three years following the effective date of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), recommend to the commissioner a school district consolidation plan to eliminate all districts, other than county-based districts and other than preschool or kindergarten through grade 12 districts in the county, through the establishment or enlargement of regional school districts. After the approval of the plan by the commissioner, the executive county superintendent shall require each board of education covered by a proposal in the plan to conduct a special school election, at a time to be determined by the executive county superintendent, and submit thereat the question whether or not the executive county superintendent's proposal for the regionalization of the school district shall be adopted. The question shall be deemed adopted if it receives a vote in accordance with the provisions of N.J.S.18A:13-5. If the question is adopted by the voters, then the regional district shall be established or enlarged in accordance with chapter 13 of Title 18A of the New Jersey Statutes;
i. Promote coordination and regionalization of pupil transportation services through means such as reviewing bus routes and schedules of school districts and nonpublic schools within the county;
j. Review and approve, according to standards adopted by the commissioner, all employment contracts for superintendents of schools, assistant superintendents of schools, and school business administrators in school districts within the county, prior to the execution of those contracts;
k. Request the commissioner to order a forensic audit and to select an auditor for any school district in the county upon the determination by the executive county superintendent, according to
standards adopted by the commissioner, that the accounting practices in the district necessitate such an audit;

1. Review all school budgets of the school districts within the county, and may, pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5), disapprove a portion of a school district’s proposed budget if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district or if he determines that the budget includes excessive non-instructional expenses. If the executive county superintendent disapproves a portion of the school district’s budget pursuant to this paragraph, the school district shall deduct the disapproved amounts from the budget prior to publication of the budget, and during the budget year the school district shall not transfer funds back into those accounts;

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

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

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

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

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

r. Conduct regional planning and identification of program needs for the development of in-district special education programs;
s. Serve as a liaison to facilitate shared special education services within the county including, but not limited to direct services, personnel development, and technical assistance;
t. Work with districts to develop in-district special education programs and services including providing training in inclusive education, positive behavior supports, transition to adult life, and parent-professional collaboration;
u. Provide assistance to districts in budgetary planning for resource realignment and reallocation to direct special education resources into the classroom;
v. Report on a regular basis to the commissioner on progress in achieving the goal of increasing the number of special education students educated in appropriate programs with non-disabled students;
w. Render a report to the commissioner annually on or before September 1, in the manner and form prescribed by him, of such matters relating to the schools under his jurisdiction as the commissioner shall require; and
x. Perform such other duties as shall be prescribed by law.

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

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

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

(cf: P.L.2009, c.78, s.10)

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

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

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

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

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

Notwithstanding any other provision of this act to the contrary, each district's State aid payable for the 2008-2009 school year, with the exception of aid for school facilities projects, shall be based on simulations employing the various formulas and State aid amounts contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The commissioner shall prepare a report dated December 12, 2007 reflecting the State aid amounts payable by category for each district and shall submit the report to the Legislature prior to the adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as otherwise provided pursuant to this subsection and paragraph (3) of subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the amounts contained in the commissioner's report shall be the final amounts payable and shall not be subsequently adjusted other than to reflect the phase-in of the required general fund local levy pursuant to paragraph (4) of subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to which a district may be entitled pursuant to section 20 of that act.

The projected pupil counts and equalized valuations used for the calculation of State aid shall also be used for the calculation of adequacy budget, local share, and required local share. For 2008-2009, extraordinary special education State aid shall be included as a projected amount in the commissioner's report dated December 12, 2007 pending the final approval of applications for the aid. If the actual award of extraordinary special education State aid is
greater than the projected amount, the district shall receive the increase in the aid payable in the subsequent school year pursuant to the provisions of subsection c. of section 13 of P.L.2007, c.260 (C.18A:7F-55). If the actual award of extraordinary special education State aid is less than the projected amount, other State aid categories shall be adjusted accordingly so that the district shall not receive less State aid than as provided in accordance with the provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47 and C.18A:7F-58).

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

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

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

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

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

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

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

1) the district's advertised per pupil administrative costs for the 2004-2005 school year inflated by the cost of living or 2.5 percent, whichever is greater; or
(2) the per pupil administrative cost limits for the district's region as determined by the commissioner based on audited expenditures for the 2003-2004 school year.

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

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

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

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

d. (1) A district shall submit, as appropriate, to the board of school estimate or to the voters of the district at the annual school budget election conducted pursuant to the provisions of P.L.1995, c.278 (C.19:60-1 et al.), a general fund tax levy which when added to the other components of its net budget does not exceed the prebudget year net budget by more than the spending growth limitation calculated as follows: the sum of the cost of living or 2.5 percent, whichever is greater, multiplied by the prebudget year net budget, and adjustments for changes in enrollment, certain capital outlay expenditures, expenditures for pupil transportation services provided pursuant to N.J.S.18A:39-1.1, expenditures incurred in connection with the opening of a new school facility during the budget year, and special education costs per pupil in excess of $40,000. The adjustment for special education costs shall equal any increase in the sum of per pupil amounts in excess of $40,000 for the budget year less the sum of per pupil amounts in excess of $40,000 for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. The adjustment for enrollments shall
equal the increase in weighted resident enrollments between the
prebudget year and budget year multiplied by the per pupil general
fund tax levy amount for the prebudget year indexed by the cost of
living or 2.5 percent, whichever is greater. The adjustment for
capital outlay shall equal any increase between the capital outlay
portion of the general fund budget for the budget year less any
withdrawals from the capital reserve account and the capital outlay
portion of the general fund budget for the prebudget year indexed
by the cost of living or 2.5 percent, whichever is greater. Any
district with a capital outlay adjustment to its spending growth
limitation shall be restricted from transferring any funds from
capital outlay accounts to current expense accounts. The
adjustment for capital outlay shall not become part of the prebudget
year net budget for purposes of calculating the spending growth
limitation of the subsequent year. The adjustment for pupil
transportation costs provided pursuant to N.J.S.18A:39-1.1 shall
equal any increase between the cost of providing such pupil
transportation services for the budget year and the cost of providing
such pupil transportation services for the prebudget year indexed by
the cost of living or 2.5 percent, whichever is greater. The
adjustment for the opening of a new school facility shall include
costs associated with the new facility related to new teaching staff
members, support staff, materials and equipment, custodial and
maintenance expenditures, and such other required costs as
determined by the commissioner. The district’s adjusted tax levy as
calculated pursuant to sections 3 and 4 of P.L.2007, c.62

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

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

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


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

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

(9) Any district may submit at the annual school budget
election a separate proposal or proposals for additional funds,
including interpretive statements, specifically identifying the
program purposes for which the proposed funds shall be used, to the
voters, who may, by voter approval, authorize the raising of an additional general fund tax levy for such purposes. In the case of a district with a board of school estimate, one proposal for the additional spending shall be submitted to the board of school estimate. Any proposal or proposals submitted to the voters or the board of school estimate shall not: include any programs and services that were included in the district's prebudget year net budget unless the proposal is approved by the commissioner upon submission by the district of sufficient reason for an exemption to this requirement; or include any new programs and services necessary for students to achieve the thoroughness standards established pursuant to subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46).

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

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

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

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

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

(11) Any reduction that may be required to be made to programs 
and services included in a district's prebudget year net budget in 
order for the district to limit the growth in its budget between the 
prebudget and budget years by its [spending] tax levy growth 
limitation as calculated pursuant to [this subsection] sections 3 and  
include reductions to excessive administration or programs and 
services that are inefficient or ineffective.

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

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

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

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

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

g. (Deleted by amendment, P.L.2007, c.260).
(cf: P.L.2007, c.260, s.28)

4. a. Proceeds from the sale and lease-back of textbooks and
non-consumable instructional materials shall not be considered
miscellaneous local general fund revenue for the purpose of
calculating the net budget or the spending growth limitation under

b. A board of education may establish a reserve account in the
general fund with all or a part of the proceeds from the sale and
lease-back of textbooks and non-consumable instructional materials
provided that subsequent appropriations from the reserve account
shall only be made within the original budget certified for taxes or
as approved by the commissioner for good cause.
(cf: P.L.1998, c.55, s.4)
Section 3 of P.L.2007, c.62 (C.18A:7F-38) is amended to read as follows:

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

b. (1) The allowable adjustment for increases in enrollment authorized pursuant to subsection a. of this section shall equal the per pupil prebudget year adjusted tax levy multiplied by EP, where EP equals the sum of:
(a) 0.50 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 1%, but not more than 2.5%;

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

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

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

c. [The allowable adjustment for a reduction in total unrestricted State aid authorized pursuant to subsection a. of this section shall equal any reduction in total unrestricted State aid from the prebudget to the budget year.] (Deleted by amendment, P.L. ,

e. ) (pending before the Legislature as this bill)

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

(2) The allowable adjustment for increases in the amount of normal and accrued liability pension contributions authorized pursuant to subsection a. of this section shall be the portion of the actual increase in total normal and accrued liability pension contributions for the budget year that exceeds [four] [2.9] percent of the total normal and accrued liability pension contributions in the prebudget year.

e. [In addition to the adjustments authorized pursuant to subsection a. of this section, for the purpose of determining a school district's allowable tax levy growth limitation for the 2007-2008 school year, a school district may apply to the commissioner for an adjustment for increases in special education costs over $40,000 per pupil, increases in tuition, capital outlay increases, and incremental increases in costs for opening a new school facility in the budget year.}
(1) The allowable adjustment for increases in special education costs over $40,000 per pupil shall equal any increase in the sum of per pupil amounts in excess of $40,000 for the budget year less the sum of per pupil amounts in excess of $40,000 for the prebudget year indexed by four percent.

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

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

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

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

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

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

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

(b) energy cost increases over the prebudget year in excess of four percent;
(c) capital outlay increases, less any withdrawals from the capital reserve account, over the prebudget year in excess of four percent;
(d) the appropriation of non-recurring general fund revenues in the prebudget year original budget, including the appropriation of surplus;
(e) increases in insurance costs over the prebudget year in excess of four percent;
(f) increases in transportation costs required to service hazardous routes over the prebudget year in excess of four percent;
(g) increases in special education costs that exceed $40,000 per each special education pupil over the prebudget year in excess of four percent;
(h) increases in tuition costs charged to a sending district by the receiving district pursuant to the provisions of N.J.S.18A:38-19 over the prebudget year in excess of four percent or charged by a county vocational school district pursuant to the provisions of section 71 of P.L.1990, c.52 (C.18A:54-20.1) over the prebudget year in excess of four percent; and
(i) incremental increases in costs associated with opening a new school facility in the budget year.

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

(3) In considering a waiver request, in addition to the authority granted to the commissioner pursuant to section 6 of P.L.1996, c.138 (C.18A:7F-5, 18A:7F-6), the commissioner shall have the power to make budgetary reallocations up to the total amount of the waiver request. The commissioner shall not reduce or reallocate any line item accounts that will impact the district's ability to meet the core curriculum content standards and provide a thorough and efficient education.

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

(5) Any decision of the commissioner as to the entitlement of any school district to an increase of its adjusted tax levy pursuant to this section shall be final and conclusive, and no appeal or review shall be taken therefrom; except that the matter may be put before the voters pursuant to subsection c. of this section. (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

b. [(1) The commissioner may direct a school district to increase specific line item expenditure accounts, for specific
purposes, to address low achievement or the causes of the district's
close failure to meet the core curriculum content standards as determined
through NJQSAC, or prior to full implementation of NJQSAC, as
determined based on a school district's status under the "No Child

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

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

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

(2) All proposals to increase the tax levy submitted pursuant to
this subsection shall include interpretive statements specifically
identifying the program purposes for which the proposed funds
shall be used and a clear statement on whether approval will affect
only the current year or result in a permanent increase in the levy.
The proposals shall be submitted and approved pursuant to sections

(3) For only the 2007-2008 school budget year, any proposal or
proposals rejected by the voters shall be submitted to the municipal
governing body or bodies for a determination as to the amount, if
any, that should be expended notwithstanding voter rejection. The
decision of the municipal governing body or bodies or board of
school estimate, as appropriate, shall be final and no appeals shall
be made to the commissioner. *(Deleted by amendment, P.L. ,
S29 [1R]
A school district may submit to the voters at the April school election, or on such other date as is set by regulation of the commissioner, a proposal or proposals to increase the adjusted tax levy by more than the allowable amount authorized pursuant to section 3 of P.L. 2007, c.62 (C.18A:7F-38). The proposal or proposals to increase the adjusted tax levy shall be approved if a majority of people voting shall vote in the affirmative. In the case of a school district with a board of school estimate, the additional adjusted tax levy shall be authorized only if a quorum is present for the vote and a majority of those board members who are present vote in the affirmative to authorize the additional adjusted tax levy.

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

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

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

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

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

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

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

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

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

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

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

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

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

"Commissioner" means the Commissioner of Education;

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

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

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

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

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

"District income" means the aggregate income of the residents of the taxing district or taxing districts, based upon data provided by the Division of Taxation in the New Jersey Department of the Treasury and contained on the New Jersey State Income Tax forms for the calendar year ending two years prior to the prebudget year.

The commissioner may supplement data contained on the State Income Tax forms with data available from other State or federal agencies in order to better correlate the data to that collected on the
With respect to regional districts and their constituent districts, however, the district income as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them;

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

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

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

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

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

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

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

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

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

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

"Resident enrollment" means the number of pupils other than preschool pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16 of the current school year, are residents of the district and are enrolled
in: (1) the public schools of the district, excluding evening schools, (2) another school district, other than a county vocational school district in the same county on a full-time basis, or a State college demonstration school or private school to which the district of residence pays tuition, or (3) a State facility in which they are placed by the district; or are residents of the district and are: (1) receiving home instruction, or (2) in a shared-time vocational program and are regularly attending a school in the district and a county vocational school district. In addition, resident enrollment shall include the number of pupils who, on the last school day prior to October 16 of the prebudget year, are residents of the district and in a State facility in which they were placed by the State. Pupils in a shared-time vocational program shall be counted on an equated full-time basis in accordance with procedures to be established by the commissioner. Resident enrollment shall include regardless of nonresidence, the enrolled children of teaching staff members of the school district or county vocational school district who are permitted, by contract or local district policy, to enroll their children in the educational program of the school district or county vocational school district without payment of tuition. Disabled children between three and five years of age and receiving programs and services pursuant to N.J.S.18A:46-6 shall be included in the resident enrollment of the district;

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

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

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

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


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

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

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

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

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

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

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

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

(f) Acquire, with the approval of either the commissioner, or voters or board of school estimate, as applicable, improvements or additions to school buildings through lease purchase agreements not in excess of five years. The agreement shall be recorded as an expenditure of the General Fund of the district. The commissioner shall approve the agreement only upon a demonstration by the district that the lease purchase payments and any operating expenses related to the agreement can be included within the district's net budget spending growth limitation and will not result in the need for approval by the voters or board of school estimate, as appropriate, of additional spending proposals to maintain existing instructional programs and extracurricular activities and will not result in the need for approval by the voters or board of school estimate, as appropriate, of additional spending proposals to maintain existing instructional programs and extracurricular activities. If the commissioner cannot approve the agreement, the board of education may frame a separate question to authorize the lease purchase agreement and obtain voter or board of school estimate approval to enter into the agreement. A district may, without separate prior approval of the commissioner, also acquire equipment through a lease purchase agreement not in excess of five years or in the case of a lease purchase agreement entered into for the acquisition of school buses not in excess of 10 years, provided that the amount of the first installment and each subsequent installment for the lease purchase payments is included in the budget that is advertised and submitted for approval to the voters of the district or the board of school estimate, as appropriate. As used herein, a "lease purchase agreement" refers to any agreement which gives the board of education as lessee the option of purchasing the leased equipment or improvements or additions to existing school buildings during or upon termination of the lease, with credit toward the purchase price of all or part of rental payments which have been made by the board of education in accordance with the lease. As part of such a transaction, the board of education may transfer or lease land or rights in land, including any building thereon, after publicly advertising for proposals for the transfer for nominal or fair market value, to the party selected by the board of education, by negotiation or otherwise, after determining that the proposal is in the best interest of the taxpayers of the district, to construct or to improve and to lease or to own or to have ownership interests in the site and the school building to be leased pursuant to such lease purchase agreement, notwithstanding the provisions of any other law to the contrary. The land and any building thereon which is described in a lease purchase agreement entered into pursuant to this amendatory act, shall be deemed to be and treated as property
of the school district, used for school purposes pursuant to R.S.54:4-3.3, and shall not be considered or treated as property leased to another whose property is not exempt, and shall not be assessed as real estate pursuant to section 1 of P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement authorized by this section shall contain a provision making payments thereunder subject to the annual appropriation of funds sufficient to meet the required payments or shall contain an annual cancellation clause and shall require all construction contracts let by public school districts or let by developers or owners of property used for school purposes to be competitively bid, pursuant to N.J.S.18A:18A-1 et seq.;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- increases in amounts required to be raised (a) all debt service and (b) lease payments with county improvement authorities pursuant to leases in effect on the effective date of P.L.2007, c.62 (C.18A:7F-37 et al.);
- increases in amounts required to be raised to replace State formula aid due to a reduction in State formula aid from the previous local budget year;
- increases in amounts for certain pension contributions set forth in section 5 of P.L.2003, c.108 (C.40A:4-45.43) for the years set forth in that section;
(4) with respect to municipalities, any increase, greater than 2.9 percent, in the reserve for uncollected taxes that is required by law;

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

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

Notwithstanding the other provisions of this subsection, when the appropriation for all debt service is less than the amount appropriated for all debt service in the prior fiscal year, the amount of the difference shall be deducted from the sum of the exclusions listed in paragraphs (1) through (6) of this subsection. If there are no exclusions, then the amount of the difference shall reduce the adjusted tax levy by that amount. Any cancelled or unexpended appropriation for any exclusion pursuant to this subsection or waiver pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46), also shall be deducted from the sum of the exclusions listed in paragraphs (1) through (6) or directly reduce the adjusted tax levy if there are no exclusions.
Section 11 of P.L.2007, c.62 (C.40A:4-45.46) is amended to read as follows:

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

   (1) increases in appropriations for capital lease payments;
   (2) energy cost increases in excess of four percent;
   (3) increases in insurance costs over the prebudget year in excess of four percent;
   (4) offsetting the loss of a non-recurring general fund revenue or surplus;
   (5) total net expenditures for new mandated services or net expenditure increases above four percent for the cost of those services that are mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency; and
   (6) for any purpose related to the provision of government services that the board deems essential to protect the public health, safety, or welfare.

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

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

b. (1) Notwithstanding subsection a. of this section, the governing body of a local unit may request approval, through a public question submitted to the legal voters residing in its territory to increase the amount to be raised by taxation by more than the allowable adjusted tax levy. Approval shall be by an affirmative vote of 60 percent or more of the people voting on the question at the election. The local unit budget proposing the increase shall be introduced and approved in the manner otherwise provided for budgets of that local unit at least 20 days prior to the date on which the referendum is to be held, and shall be published in the manner otherwise provided for budgets of the local unit at least 12 days prior to the referendum date, unless otherwise directed by the Director of the Division of Local Government Services in the Department of Community Affairs.
(2) The public question to be submitted to the voters at the referendum shall state only the amount by which the adjusted tax levy shall be increased by more than the otherwise allowable adjusted tax levy, and the percentage rate of increase which that amount represents over the allowable adjusted tax levy. The public question shall include an accompanying explanatory statement that identifies the changes in appropriations or revenues that warranted the governing body's decision to ask the public question; or, in the alternative and subject to the approval of the Director of the Division of Local Government Services in the Department of Community Affairs, a clear and concise narrative explanation of the circumstances for the increased adjusted tax levy being proposed.

(3) Unless otherwise provided pursuant to section 1 of P.L.1989, c.31 (C.40A:4-5.1), a referendum conducted pursuant to this subsection shall be held:
   (a) for calendar year budgets only on the fourth Tuesday in January and the second Tuesday in March other than in a year when a presidential primary election occurs, in which case no such election on that date may be called; and
   (b) for fiscal year budgets, only the last Tuesday in September, or the second Tuesday in December;

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

(5) The director is authorized to act as necessary in order to consolidate ballot questions and procedures when a governing body elects to hold a referendum under both this section and section 9 of P.L.1983, c.49 (C.40A:4-45.16).
adjusted tax levy, and the percentage rate of increase which that
amount represents over the allowable adjusted tax levy. The public
question shall include an accompanying explanatory statement that
identifies the changes in appropriations or revenues that warranted
the governing body's decision to ask the public question; or, in the
alternative and subject to the approval of the Director of the
Division of Local Government Services in the Department of
Community Affairs, a clear and concise narrative explanation of the
circumstances for the increased adjusted tax levy being proposed.

(3) Unless otherwise provided pursuant to section 1 of P.L.1989,
c.31 (C.40A:4-5.1), a referendum conducted pursuant to this
subsection shall be held:
(a) for calendar year budgets only on the fourth Tuesday in
January and the second Tuesday in March other than in a year when
a presidential primary election occurs, in which case no such
election on that date may be called; and
(b) for fiscal year budgets, only the last Tuesday in September,
or the second Tuesday in December;
provided, however, that no referendum shall be held on the same
day as a referendum to exceed the school district levy cap.

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

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

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

d. The adjusted tax levy shall be increased or decreased
accordingly whenever the responsibility and associated cost of an
activity performed by a local unit is transferred to or from a local
unit, other government entity, or other service provider.
(cf: P.L.2007, c.62, s.11)

\[12.] 11.\] Section 47 of P.L.2007, c.62 is amended to read as
follows:
47. This act shall take effect immediately; provided, however,
sections 2 through 12 shall be applicable only to budget years
beginning on or after July 1, 2007, and shall not be applicable to
budget years beginning after June 30, 2012;] section 13 shall be
retroactive to July 1, 2006, and shall not be applicable to budget years beginning after June 30, 2012; and sections 19 through 40 shall first apply to claims for rebates and credits for property taxes paid for the tax year 2006.


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

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.