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Senator  JIM WHELAN
District 2 (Atlantic)
Senator  KEVIN J. O’TOOLE
District 40 (Bergen, Essex and Passaic)
Senator  JOSEPH M. KYRILLOS, JR.
District 13 (Middlesex and Monmouth)

SYNOPSIS
Reduces school district, county, and municipal property tax levy cap from 4% to 2.9% and permits unused school district, county, and municipal increases to be banked for three succeeding years.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 7/8/2010)
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.

   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

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.
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].

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

2. 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;
l. 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)

3. 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

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 (C.18A:7F-38 and 18A:7F-39).

(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)

(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 4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39), shall only 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. Section 4 of P.L.1998, c.55 (C.18A:7F-5.2) is amended to read as follows:

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 P.L.1996, c.138 (C.18A:7F-1 et seq.)].

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)

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

3. a. (1) 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 \(\frac{2.9}{4}\) 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, 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.

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

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.

d. (1) The allowable adjustment for increases in health care
costs authorized pursuant to subsection a. of this section shall equal
that 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 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 equal that 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)

6. 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-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.

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 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 Left Behind Act of 2001," Pub.L.107-110.

(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.

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 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6).

(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. ,
c. ) (pending before the Legislature as this bill)]
d. 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.
e. A school district that has not been granted approval for a
waiver pursuant to 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)

7. 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 federal census. 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 CFRs.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;

"Tax levy growth limitation" means the permitted annual increase in the adjusted tax levy for a school district as calculated pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39);

8. 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] tax levy growth limitation. 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. 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 \[1.04\] 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)

10. 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:

(1) increases in amounts required to be raised for (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.);

(2) 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;

(3) 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 [four] 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 [four] 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 [four] 2.9 percent of the normal and accrued liability pension contributions in the prior year.

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

11. 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 [or promote] 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.

b. [11 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;

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).]

(Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)

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.

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. 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.

13. The following sections are repealed:

Section 36 of P.L.2000, c.126 (C.18A:7F-5a);
Section 3 of P.L.2003, c.92 (C.18A:7F-5b);
Section 1 of P.L.1997, c.232 (C.18A:7F-5.1);
Section 5 of P.L.2007, c.62 (C.18A:7F-40);

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

STATEMENT

This bill reduces the tax levy cap for school districts, counties, municipalities, fire districts, and solid waste collection districts from the currently permitted 4% annual increase to a 2.9% permitted annual increase. The bill also establishes the tax levy cap as the permanent mechanism for the calculation of the maximum allowable increase in property taxes that may occur between budget years. Under existing law, the 2007 tax levy cap law is scheduled to expire June 30, 2012.

The bill narrows the purposes for which waivers to authorize the raising of additional tax levy may be requested from the Local Finance Board to only those purposes related to the provision of government services that the board deems essential to protect the public health, safety, or welfare. In the case of school districts, a waiver may only be requested from the Commissioner of Education for a district’s failure to meet the core curriculum content standards (thorough and efficient). The bill also eliminates the ability of a local unit or a school district to submit a public question to the voters to exceed the allowable tax levy.

The bill would also permit levy cap "banking" of any portion of the permitted 2.9% increase under the property tax levy cap that is not used by a county or municipality in any budget year. In the case of a school district it would allow cap banking of any portion of the permitted 2.9% increase plus applicable adjustments not used by the school district in a budget year. Under current law, if a county, municipality, or school district does not use the entire 4%
increase, perhaps because it uses surplus that year to keep tax rates steady, the difference is lost. This can be a problem in a succeeding tax year if circumstances require an unexpected increase in expenditures to maintain services. Under the bill, the cap is being reduced, but any unused permissible increase amount under the reduced levy cap limit could be used in any one of the next three succeeding budget years. This concept is similar to cap banking under the municipal and county appropriations cap law (N.J.S.A.40A:4-45.1 et seq.). Cap banking was also authorized under the statutes which established the formula for the calculation of a school district’s spending growth limitation, which was last operative in the 2006-2007 school year, and which is being repealed under this bill as the tax levy growth limitation becomes the permanent mechanism to calculate school district tax levy increases.

The bill also deletes language in current law in order to eliminate a levy cap penalty that occurs when a county or municipality acts responsibly to reduce its debt servicing expenditures. The reduction in the property tax levy cap would be applicable to the local budget year next following enactment of the bill, and the opportunity to bank any unused portion of the allowable increase would commence in that local budget year so that any unused portion of the current 4 percent levy cap would not be available to be banked.

The current levy cap, enacted in 2007, has been effective in holding down the rate of property tax increases. According to the information posted on the Division of Local Government Services website, the average municipal property tax bill rose 3.7% from 2007 to 2008 and 3.3% from 2008 to 2009. The tightening of the existing levy cap laws will act to further control such increases.