

## CHAPTER 73

**AN ACT** concerning school district budget caps and amending and supplementing parts of the statutory law.

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

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

C.18A:7F-5 Notification of districts of aid payable; budget submissions.

5. As used in this section, "cost of living" means the CPI as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3).

a. Biennially, within 30 days following the approval of the Report on the Cost of Providing a Thorough and Efficient Education, the commissioner shall notify each district of the T&E amount, the T&E flexible amount, the T&E range, early childhood program amount, demonstrably effective program amount, instructional supplement amount, and categorical amounts per pupil for the subsequent two fiscal years.

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 this act, and shall notify each district of the district's T&E budget, maximum T&E budget, and minimum permissible T&E budget for the succeeding school year.

Beginning in the 1998-99 school year, unless otherwise specified within this act, 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 1997-98 school year, with the exception of transportation and facilities aids pursuant to sections 25, 26, and 27 of this act, shall be based on simulations employing the various formulas and State aid amounts contained in this act using projections based on the October 1995 pupil counts, December 1995 special education census data and October 1995 equalized valuations. Transportation aid shall be calculated based on the provisions of this act using pupil data used for the 1996-97 school year and adjusted to reflect the total amount of State aid disbursed in the 1996-97 school year. The commissioner shall prepare a report dated December 19, 1996 reflecting the State aid amounts payable by category for each district and shall submit the report to the Legislature prior to the adoption of this act. The amounts contained in the commissioner's report shall be the final amounts payable and shall not be subsequently adjusted because of changes in pupil counts or equalized valuations. The projected pupil counts and equalized valuations used for the calculation of State aid shall also be used for the calculation of maximum T&E budget, minimum T&E budget, local share, required local share, and spending growth limitation. State aid notification of debt service aid pursuant to section 27 of this act shall include a statement that debt service aid shall be determined in the budget.

Any school district which enrolls students who reside on federal property which were not included in the calculation of core curriculum standards aid for 1997-98 shall have its core curriculum standards aid recalculated for these additional enrollments through the 1997-98 school year using the property value multiplier, income value multiplier, equalized valuation, and district income which were used in the original Statewide calculation of core curriculum standards aid. The additional aid resulting from the recalculations shall be divided by 20 and the product shall be added to each of the remaining core curriculum standards aid payments for the 1997-98 school year. Additionally, the core curriculum standards aid calculation and payment schedule for 1998-99 shall be adjusted for such enrollments arriving after the last school day prior to October 16, 1997.

b. Each district shall have a required local share. For Abbott districts, the required local share for the purpose of determining its estimated minimum equalized tax rate and supplemental core curriculum standards aid shall equal the district's local share calculated at the middle of the

T&E range (T&E amount x WENR, where WENR is the district's weighted enrollment pursuant to section 13 of this act).

Notwithstanding the above provision, no Abbott district shall raise a general fund tax levy which is less than the prior year general fund tax levy unless the sum of the levy and the other components of the T&E program budget equals or exceeds its maximum T&E budget calculated pursuant to section 13 of this act.

For district factor group A districts, the required local share shall equal the district's local share calculated at its minimum T&E budget pursuant to section 13 of this act.

For all other districts, the required local share shall equal the lesser of the local share calculated at the district's minimum T&E budget pursuant to section 13 of this act, 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, when added to the general fund balance designated for the budget year, miscellaneous local general fund revenues estimated consistent with GAAP to be realized during the budget year, supplemental core curriculum standards aid calculated pursuant to section 17 of this act and stabilization aid and supplemental school tax reduction aid calculated pursuant to section 10 of this act, equals its required local share or, for Abbott districts, the amount required when the calculation of required local share would result in a general fund tax levy which is less than the general fund tax levy of the prebudget year. For 1997-98, the budgeted local share for the prebudget year shall be the district's general fund tax levy.

For the 1997-98 school year, any tax increase which would be required of an Abbott district or district factor group A district to meet its required local share, after consideration of supplemental core curriculum standards aid, stabilization aid, and supplemental school tax reduction aid shall be fully funded by the State and recorded as supplemental core curriculum standards aid. The commissioner, in consultation with the Commissioner of the Department of Community Affairs and the Director of the Division of Local Government Services in the Department of Community Affairs, shall examine the fiscal ability of the Abbott districts and the district factor group A districts eligible for supplemental core curriculum standards aid to absorb any reduction in such aid and shall make recommendations to the Legislature and the Governor regarding the continuation of supplemental core curriculum standards aid to those districts. In making those recommendations, the commissioner shall consider the ratable base of the municipality or municipalities in which the district is located, the tax burden placed upon the local community due to other required municipal services, and the fiscal ability of the school district to raise its required local share. The commissioner shall not implement any of those recommendations until the recommendations are enacted into law.

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 no less than the minimum permissible T&E budget, plus categorical amounts required for a thorough and efficient education as established pursuant to the report, special revenue funds and debt service funds.

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 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 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 proposing a budget which includes spending which exceeds the maximum T&E budget established pursuant to section 13 of this act 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 seq.), 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 unweighted 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.

(2) A district proposing a budget set at or below the minimum T&E budget established pursuant to section 13 of this act 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 seq.), a general fund tax levy which when added to the other components of the net T&E budget shall not exceed the prebudget year net T&E budget or in 1997-98 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 enrollment adjustment shall equal the increase in weighted resident enrollment between the prebudget year and the budget year multiplied by the T&E amount less the T&E flexible amount. The adjustments for special education costs, pupil transportation services, and capital outlay expenditures shall be calculated pursuant to the provisions of paragraph (1) of this subsection. 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.

Notwithstanding the provisions of this paragraph, no district shall raise a net budget which is less than the local share required under the required local share provisions of this act plus the other components of its net budget.

(3) A district proposing a budget set at or below the maximum T&E budget, but including amounts in excess of the minimum T&E budget established pursuant to section 13 of this act, shall submit, as appropriate, to the board of school estimate or to the voters at the annual school budget election conducted pursuant to the provisions of P.L.1995, c.278 (C.19:60-1 et seq.), a general fund tax levy which when added to the other components of its net T&E budget does not exceed the prebudget year net T&E budget or in 1997-98 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 per pupil. The enrollment adjustment shall equal the increase in the unweighted resident enrollment between the prebudget year and the budget year multiplied by the prebudget year T&E program budget per pupil indexed by the cost of living or 2.5 percent, whichever is greater. For the 1997-98 school year, the T&E program budget for the prebudget year shall equal the sum of the general fund tax levy, foundation aid, and transition aid. The adjustment for special education costs, pupil transportation services, and capital outlay expenditures shall be made pursuant to the provisions of paragraph (1) of this subsection. 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.

(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.

(5) For the 1997-98 school year, a district's spending growth limitation shall be increased by the excess of county special services school district tuition over prebudget year county special services school district tuition indexed by the CPI or three percent, whichever is greater.

(6) For the purpose of determining a district's spending growth limitation for the 1997-98 school year, a district may apply to the commissioner to add all or a part of the district's original designated general fund balance for 1996-97 to the spending growth limitation if it can demonstrate through current accounting records and historical trend data that the fund balance will actually be spent in the budget year.

(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.

(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.1996, c.138 (C.18A:7F-4).

The 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.

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.

(10) Notwithstanding any provision of law to the contrary, if a district proposes a budget which exceeds the maximum T&E 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 growth limitation as calculated pursuant to this subsection, 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 in excess of the maximum T&E 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 net 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 at or below the maximum T&E 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 the case of a school district in which the proposed budget is below, or after a reduction made by the municipal governing body or board of school estimate is below, the minimum T&E

budget calculated pursuant to section 13 of this act, any reductions made by the municipal governing body or board of school estimate shall be automatically reviewed by the commissioner. In reviewing the budget, 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.

f. Any district which is not an Abbott district but which was classified as a special needs district under the "Quality Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), may appeal any budget reduction made by the municipal governing body or board of school estimate, as appropriate, to the commissioner.

g. The commissioner shall annually review the budget of any district which was classified as a special needs district under the "Quality Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), to determine if any educationally meritorious program or service established through State resources provided as a result of that funding law is proposed to be reduced or eliminated. If the commissioner determines that the program or service is in jeopardy and that a reallocation of resources is possible without jeopardizing other educationally meritorious programs or services, he may require the school board to fund the program or service through a reallocation of resources.

2. Section 36 of P.L.2000, c.126 (C.18A:7F-5a) is amended to read as follows:

C.18A:7F-5a Inclusion of certain amounts in future school district budget.

36. a. Notwithstanding any provision of P.L.1996, c.138 (C.18A:7F-1 et seq.) to the contrary and except as otherwise provided pursuant to subsection b. of this section, any school district which increases its net budget between the prebudget and budget years in an amount less than that authorized pursuant to subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), shall be permitted to include the amount of the difference between its actual net budget and its permitted net budget in either of the next two succeeding budget years; except that beginning with any difference in the 2004-2005 budget year and any difference in a subsequent budget year, only 50% of the difference may be included in either of the next two succeeding budget years.

b. For the 2005-2006 school year and thereafter, the county superintendent of schools may disapprove a school district's proposed budget which includes the amount of any difference authorized pursuant to subsection a. of this section if the county superintendent 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 inclusion of the differential amount. The county superintendent shall work with each school district in the county during the 2004-2005 school year and each subsequent school year to identify administrative inefficiencies in the operations of the district that might cause the county superintendent to reject the district's proposed budget.

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

C.18A:7F-7 Undesignated general fund balances, use, limits.

7. a. For the 2004-2005 school year, an undesignated general fund balance in excess of 3% of the budgeted general fund for the prebudget year or \$100,000, whichever is greater, shall be appropriated by a school district based on surplus as anticipated pursuant to paragraph (2) of

subsection a. of N.J.S.18A:22-8 and included in the budget prepared pursuant to section 5 of this act. In the event that the district's 2004-2005 budget is not approved by the voters of the district or the board of school estimate, the district may use the undesignated general fund balance which exceeds 3% to meet the reduction in tax levy certified by the municipal governing body or bodies or board of school estimate following review of the defeated budget. Any appropriation of the undesignated general fund balance made by board resolution following the April 2004 school budget election and prior to the effective date of P.L.2004, c.73 to the capital reserve account or maintenance reserve account or to increase spending for the 2003-2004 school year shall be null and void unless, upon written application to the commissioner, the district demonstrates that the appropriation was necessary for use in the 2003-2004 school year to meet the thoroughness standards established pursuant to subsection a. of section 4 of P.L.1996, c.138 (C.18A:7F-4) and no other line item account balances were available.

In the 2005-2006 school year and thereafter, an undesignated general fund balance in excess of 2% of the budgeted general fund for the prebudget year or \$100,000, whichever is greater, shall be appropriated by a school district for the purpose of the budget prepared pursuant to section 5 of this act.

The amount of any funds made available for appropriation as a result of the reduction in the percentage of authorized undesignated general fund balance pursuant to P.L.2004, c.73 shall be used to reduce the general fund tax levy required for the budget year.

In the case of a county vocational school district, if the amount of the budgeted general fund for the prebudget year is \$100 million or less, an undesignated general fund balance in excess of 6% of that amount or \$100,000, whichever is greater, shall be appropriated by the county vocational school district for the purpose of the budget prepared pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5). If the amount of the budgeted general fund for the prebudget year exceeds \$100 million, an undesignated general fund balance in excess of 6% of the first \$100 million and in excess of 3% of the amount which exceeds \$100 million shall be appropriated by a county vocational school district for the purpose of the budget prepared pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5).

b. Notwithstanding the provisions of subsection a. of this section, if the district has a formal plan to expand, renovate or construct school facilities, join a distance learning network, or make a major replacement or acquisition of instructional equipment within the subsequent five years, the district may, with the approval of the commissioner, transfer the excess undesignated general fund balance to the capital reserve account established pursuant to N.J.S.18A:21-3 for that purpose.

c. If it is determined that the undesignated general fund balances at June 30 of any school year exceed those permitted under subsection a. of this section, the excess undesignated general fund balances shall be reserved and designated in the subsequent year's budget submitted to the commissioner pursuant to subsection c. of section 5 of this act.

d. The commissioner may withhold State aid in an amount not to exceed the excess undesignated general fund balances for failure to comply with subsection c. of this section.

e. Proceeds from the sale and lease-back of textbooks and non-consumable instructional materials shall not be included in the calculation of excess undesignated general fund balance during the budget year in which they are realized.

4. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to read as follows:

C.18A:7G-13 Responsibilities of authority.

13. a. The authority shall be responsible for the financing, planning, design, construction management, acquisition, construction, and completion of school facilities projects. Upon submission to the authority of a final project report, the authority shall undertake the acquisition, construction, and all other appropriate actions necessary to complete the project. When the final eligible costs of a school facilities project are less than or equal to \$500,000, the authority may, in its discretion, authorize a district to undertake the acquisition, construction and all other appropriate actions necessary to complete the project and enter into a grant agreement with the district for the payment of the State share.

b. The authority shall undertake the financing of school facilities projects pursuant to the provisions of this act. The authority may, in its discretion and upon consultation with the district, finance only the State share of the school facilities project or the State share and the local share of the project. In the event that the authority finances only the State share of a project, the authority shall not commence acquisition or construction of the project until the authority receives the local share from the district.

c. In order to implement the arrangements established for school facilities projects which are to be constructed by the authority and financed pursuant to this section, a district shall enter into an agreement with the authority and the commissioner containing the terms and conditions determined by the parties to be necessary to effectuate the project.

d. Upon completion by the authority of a school facilities project, the district shall enter into an agreement with the authority to provide for the maintenance of the project by the district. In the event that the school facilities project is constructed by a district, upon the completion of the project, the district shall submit to the commissioner a plan to provide for the maintenance of the project by the district. Any agreement or plan shall contain, in addition to any other terms and provisions, a requirement for the establishment of a maintenance reserve fund consistent with the appropriation and withdrawal requirements for capital reserve accounts established pursuant to section 57 of P.L.2000, c.72 (C.18A:7G-31), the funding levels of which shall be as set forth in regulations adopted by the commissioner pursuant to section 26 of this act.

5. Section 57 of P.L.2000, c.72 (C.18A:7G-31) is amended to read as follows:

C.18A:7G-31 Establishment of capital reserve account.

57. a. Notwithstanding any provision of this act or any other law or regulation to the contrary, a board of education or a board of school estimate, as appropriate, may, through the adoption of a board resolution, establish a capital reserve account. The account shall be established and held in accordance with GAAP and shall be subject to annual audit. The funds in the capital reserve account shall be used to finance the district's long-range facilities plan required pursuant to subsection a. of section 4 of this act and the amount in the account shall not exceed the total amount of local funds required to implement the plan.

b. A board of education or a board of school estimate, as appropriate, may appropriate funds in the district's annual budget for the establishment of the capital reserve account pursuant to subsection a. of this section or to supplement the funds in the account as required to meet the needs of the long-range facilities plan.

c. A board of education may, by resolution of the board: transfer funds from the capital reserve account to the appropriate line item account for the funding of capital projects as contained in the district's long-range facilities plan; and transfer funds from the capital reserve account to the debt service account for the purpose of offsetting principal and interest payments for bonded projects which are included in the district's long-range facilities plan.

6. Section 2 of P.L.1979, c.294 (C.18A:22-8.1) is amended to read as follows:

C.18A:22-8.1 Transfer of funds, conditions.

2. Except as otherwise provided pursuant to this section, whenever a school district desires to transfer amounts among line items and program categories, the transfers shall be by resolution of the board of education approved by a two-thirds affirmative vote of the authorized membership of the board; however, a board may, by resolution, designate the chief school administrator to approve such transfers as are necessary between meetings of the board. Transfers approved by the chief school administrator shall be reported to the board, ratified and duly recorded in the minutes at a subsequent meeting of the board, but not less than monthly. Transfers of surplus amounts or any other unbudgeted or underbudgeted revenue to line items and program categories shall require the approval of the Commissioner of Education and shall only be approved between April 1 and June 30 for line items and program categories necessary to achieve the thoroughness standards established pursuant to subsection a. of section 4 of P.L.1996, c.138 (C18A:7F-4); except that upon a two-thirds affirmative vote of the authorized



membership of a board of education, the board may petition the commissioner for authority to transfer such revenue prior to April 1 due to an emergent circumstance and the commissioner may authorize the transfer if he determines that the transfer is necessary to meet such emergency. Transfers from any general fund appropriation account that, on a cumulative basis, exceed 10% of the amount of the account included in the school district's budget as certified for taxes shall require the approval of the commissioner. In a school district wherein the Commissioner of Education has directed a comprehensive compliance investigation pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14), the board of education shall obtain the written approval of the county superintendent of schools prior to implementing any board authorized transfer of funds.

7. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the provisions of P.L.2004, c.73 which shall be effective for a period not to exceed 12 months. Determinations made by the commissioner pursuant to P.L.2004, c.73 and the rules and regulations adopted by the commissioner to implement that act shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court. The regulations shall thereafter be amended, adopted or readopted by the State Board of Education in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

8. This act shall take effect upon the enactment into law of P.L.2004, c.40 (C.54A:9-29 et al.), P.L.2004, c.74 (C.40A:4-45.15c et al.), and P.L.2004, c.85.

Approved July 1, 2004.