

Transportation Trust Fund Statute (27:1B et al)

27:1B-1. Short title

This act shall be known and may be cited as the "New Jersey Transportation Trust Fund Authority Act of 1984."

27:1B-2. Legislative findings and declarations

The Legislature finds and declares that:

- a. A sound, balanced transportation system is vital to the future of the State and is a key factor in its continued economic development.
- b. The transportation infrastructure of the State is among the most heavily used in the nation and has deteriorated alarmingly in recent years, with parts of the highway system reaching the end of their useful lives. This deterioration has been caused, in part, because New Jersey, unlike most states and the federal government, has not provided a stable source of transportation funding.
- c. There exists an urgent need for a stable and assured method of financing the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of the State's transportation system, including the financing of the State's share under federal aid highway laws of the cost of planning, acquisition, engineering, construction, reconstruction, repair, resurfacing, and rehabilitation of public highways and of the State's share of the planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and other transportation projects in the State, that will enable the State to construct and maintain the safe, balanced, sound and efficient transportation system necessary for the well-being of the State's citizens.
- d. Unless additional State funding is provided immediately for the State's transportation system, the cost of repair and reconstruction will increase geometrically and the economic well-being and safety of users of the State's transportation system will be endangered.
- e. Transportation facilities under the jurisdiction of counties and municipalities form an integral and vital part of the State's transportation system. Without State aid, counties and municipalities will be unable to meet the cost of maintaining, rehabilitating and improving these facilities.
- f. The State's commitment to the payment for and financing of the State transportation system in a stable fashion, thus ensuring a predictable and continuing public investment in transportation and allowing the State to take full advantage of funds provided by the federal government, is a public use and public purpose for which public money may be expended and tax exemptions granted. The powers and duties of the New Jersey Transportation Trust Fund Authority and the other measures hereinafter described are necessary and proper for the purpose of achieving the ends herein recited.
- g. Mass transit passenger service is a vital component of the transportation system in the northern part

of the State. Because transit service is of such importance to that region, it is paramount that an essential group of related transit projects be constructed. These projects, known as the Circle of Mobility, would add connections to and between urban centers, ease the movement of people, goods, and services within and through the State, and enhance the economic growth of the State. However, these significant benefits cannot be completely realized unless all projects comprising the Circle of Mobility are undertaken and completed in a timely manner.

27:1B-3. Definitions

The following words or terms as used in this act shall have the following meaning unless a different meaning clearly appears from the context:

- a. "Act" means this New Jersey Transportation Trust Fund Authority Act of 1984.
- b. "Authority" means the New Jersey Transportation Trust Fund Authority created by section 4 of this act.
- c. "Bonds" means bonds issued by the authority pursuant to the act.
- d. "Commissioner" means the Commissioner of Transportation.
- e. "Department" means the Department of Transportation.
- f. "Federal aid highway" means any highway within the State in connection with which the State receives payment or reimbursement from the federal government under the terms of Title 23, United States Code or any amendment, successor, or replacement thereof, for the purposes contained in the act.
- g. "Federal government" means the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.
- h. "South Jersey Transportation Authority" means the public corporation created by section 4 of P.L.1991, c. 252 (C.27:25A-4) or its successor.
- i. "New Jersey Highway Authority" means the public corporation created by section 4 of P.L.1952, c. 16 (C.27:12B-4) or its successor.
- j. "New Jersey Turnpike Authority" means the public corporation created by section 3 of P.L.1948, c. 454 (C.27:23-3) or its successor.
- k. "Notes" means the notes issued by the authority pursuant to the act.
- l. "Public highways" means public roads, streets, expressways, freeways, parkways, motorways and boulevards, including bridges, tunnels, overpasses, underpasses, interchanges, rest areas, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at grade or not at grade, bicycle and pedestrian pathways and pedestrian and bicycle bridges traversing public highways and any facilities, equipment, property, rights of way, easements and interests therein

needed for the construction, improvement and maintenance of highways.

m. "Public transportation project" means, in connection with public transportation service, passenger stations, shelters and terminals, automobile parking facilities, ferries and ferry facilities, including capital projects for ferry terminals, approach roadways, pedestrian accommodations, parking, docks, and other necessary land-side improvements, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lanes or rights of way, equipment storage, pedestrian walkways and bridges connecting to passenger stations and servicing facilities, bridges, grade crossings, rail cars, locomotives, motorbuses and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service.

n. "State agency" means any officers, department, board, commission, bureau, division, agency or instrumentality of the State.

o. "Toll road authorities" means and includes the New Jersey Turnpike Authority, the New Jersey Highway Authority and the South Jersey Transportation Authority.

p. "Transportation project" means, in addition to public highways and public transportation projects, any equipment, facility or property useful or related to the provision of any ground, waterborne or air transportation for the movement of people and goods including rail freight infrastructure.

q. "Transportation system" means public highways, public transportation projects, other transportation projects, and all other surface, airborne and waterborne methods of transportation for the movement of people and goods.

r. " Permitted maintenance" means, in relation to public transportation projects, direct costs of work necessary for preserving or maintaining the useful life of public transportation projects, provided the work performed is associated with the acquisition, installation and rehabilitation of components which are not included in the normal operating maintenance of equipment and facilities or replaced on a scheduled basis. The work shall ensure the useful life of the project for not less than five years and shall not include routine maintenance or inspection of equipment and facilities that is conducted on a scheduled basis. This definition shall not apply to the term " maintenance" as used in subsection l. of this section. For purposes of this subsection, "permitted maintenance" means, in relation to public highways, the direct costs of work necessary for preserving or maintaining the useful life of public highways, provided the work is not associated with the regular and routine maintenance of public highways and their components. The work shall ensure the useful life of the project for not less than five years.

s. "Circle of Mobility" means an essential group of related transit projects that include (1) the New Jersey Urban Core Project, as defined in section 3031 of the "Intermodal Surface Transportation Efficiency Act of 1991," Pub.L.102- 240, and consisting of the following elements: Secaucus Transfer, Kearny Connection, Waterfront Connection, Northeast Corridor Signal System, Hudson River Waterfront Transportation System, Newark-Newark International Airport-Elizabeth Transit Link, a rail connection between Penn Station Newark and Broad Street Station, Newark, New York Penn Station Concourse, and the equipment needed to operate revenue service associated with improvements made by the project, and (2) the modification and reconstruction of the West Shore Line in Bergen County connected to Allied Junction/Secaucus Transfer Meadowlands Rail Center; the construction of a rail station and associated components at the Meadowlands Sports Complex; the modification and reconstruction of the Susquehanna and Western Railway, as defined and provided in section 3035 (a)

of the "Intermodal Surface Transportation Efficiency Act of 1991"; the modification and reconstruction of the Lackawanna Cutoff Commuter Rail Line connecting Morris, Sussex and Warren Counties to the North Jersey Transportation Rail Centers; and commuter rail service in the central New Jersey region terminating at the proposed Lakewood Transportation Center in Ocean County or other location, as determined by the Board of the New Jersey Transit Corporation, pursuant to a resolution of the board providing for the achievement of a consensus among the interested parties as to the direction of the proposed rail line; provided, however, that this 2000 amendatory act shall not be construed as affecting any priorities which may have been assigned to any other project in the Circle of Mobility.

27:1B-4. New Jersey transportation trust fund authority; establishment; members; officers; quorum; vote necessary; reimbursement of expenses; minutes of meetings to Governor; approval of actions; dissolution

a. There is hereby established in the department a public body corporate and politic, with corporate succession, to be known as the "New Jersey Transportation Trust Fund Authority." For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the authority is hereby allocated within the Department of Transportation, but notwithstanding said allocation, the authority shall be independent of any supervision or control by the department or by any board or officer thereof. The authority is hereby constituted as an instrumentality of the State, exercising public and essential governmental functions, no part of whose revenues shall accrue to the benefit of any individual, and the exercise by the authority of the powers conferred by the act shall be deemed and held to be an essential governmental function of the State.

b. The authority shall consist of seven members as follows: the commissioner and the State Treasurer, who shall be members ex officio, and five public members, three of whom shall be appointed by the Governor, with the advice and consent of the Senate, one of whom shall represent the interests of trade unions that work on the construction of public highways and the other shall represent the interests of owners of firms that are eligible to submit bids for the construction of public highways. The two remaining public members shall be appointed by the Governor, one of whom upon recommendation of the President of the Senate and the other upon recommendation of the Speaker of the General Assembly. No more than four members of the authority shall be of the same political party. The public members appointed by the Governor shall serve a four-year term, except that the public member appointed by the Governor upon recommendation of the President of the Senate shall serve for a four-year term and the public member appointed upon recommendation of the Speaker of the General Assembly shall serve for a two-year term.

With respect to those public members first appointed by the Governor: the Senate shall advise and consent to the appointment of the member not appointed upon recommendation of the President and the Speaker within 30 days of the receipt thereof from the Governor, such appointment having been sent by the Governor to the Senate within 20 days following the effective date of this act; the President of the Senate and the Speaker of the General Assembly shall send their recommendations for public members to the Governor within 20 days following the effective date of this act. The Governor has an additional 10 days to accept or reject in writing these recommendations. With respect to the two additional public members to be appointed by the Governor pursuant to P.L.2000, c. 73 (C.27:1B-21.14 et al.), the Senate shall advise and consent to the appointment of the members, such appointments having been sent by the Governor to the Senate within 20 days following the date of enactment of P.L.2000, c. 73 (C.27: 1B-21.14 et al.).

Each public member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. Each public member, except those appointed upon recommendation of the President of the Senate and the Speaker of the General Assembly, may be removed from office by the Governor, for cause, after public hearing, and may be suspended by the Governor pending the completion of such hearing. All members before entering upon their duties shall take and subscribe an oath to perform the duties of their office faithfully, impartially and justly to the best of their ability. A record of such oaths shall be filed in the Office of the Secretary of State.

d. The authority shall not be deemed to be constituted and shall not take action or adopt motions or resolutions until at least four authorized members shall have been appointed and qualified in the manner provided in this section. The commissioner shall serve as chairperson of the authority. Prior to the authority being constituted, the chairperson is authorized to transfer up to \$75 million to the department from the appropriations made to the authority for the fiscal year commencing July 1, 1984. The members shall annually elect one of their members as vice chairperson. The members shall elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer. The powers of the authority shall be vested in the members thereof in office from time to time and four members of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least four members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no member shall be deemed to have forfeited nor shall the member forfeit the member's office or employment or any benefits or emoluments thereof by reason of the member's acceptance of the office of ex officio member of the authority or the member's services therein.

f. Each ex officio member may designate an employee of the member's department or agency to represent the member at meetings of the authority. All designees may lawfully vote and otherwise act on behalf of the member for whom they constitute the designee. The designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended in writing delivered to the authority.

g. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at the meeting by the authority shall have force or effect until 15 days after such copy of the minutes shall have been so delivered, unless during this 15-day period the Governor shall approve in writing the same or any part thereof, in which case the action shall become effective upon approval. If, in said 15-day period, the Governor returns a copy of the minutes with his veto of any action taken by the authority or any member thereof at the meeting, the action shall be null and void and of no effect. Notwithstanding the foregoing, if the last day of the 15-day period shall be a Saturday, Sunday or legal holiday, then the 15-day period shall be deemed extended to the next following business day. The powers conferred in this paragraph upon the Governor shall be exercised with due regard for the rights of the holders of bonds, notes or other obligations of the authority at any time outstanding, and nothing in, or done pursuant to, this paragraph shall in any way limit, restrict or alter the obligation or powers of the authority or any

representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds, notes or other obligations or for the benefit, protection or security of the holders thereof.

h. The authority shall continue in existence until dissolved by act of the Legislature. However, any dissolution of this authority shall be on condition that the authority has no debts, contractual duties or obligations outstanding, or that provision has been made for the payment, discharge or retirement of these debts, contractual duties or obligations. Upon any dissolution of the authority, all property, rights, funds and assets thereof shall pass to and become vested in the State.

27:1B-5. Purpose of authority

It shall be the sole purpose of the authority created under this act to provide the payment for and financing of all, or a portion of, the costs incurred by the department for the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of the State's transportation system, including, without limitation, the State's share (including State advances with respect to any federal share) under federal aid highway laws of the costs of planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways, the State's share (including State advances with respect to any federal share) of the costs of planning, acquisition, engineering, construction, reconstruction, repair, permitted maintenance and rehabilitation of public transportation projects and other transportation projects in the State, and State aid to counties and municipalities for transportation projects, all in furtherance of the public policy declared in section 2 of the act, in the manner provided for in the act.

27:1B-6. Powers of authority

In addition to all other powers granted to the authority in the act, the authority shall have power:

- a. To sue and be sued;
- b. To have an official seal and alter the same at its pleasure;
- c. To make and alter bylaws for its organization and internal management and rules and regulations for the conduct of its affairs and business;
- d. To maintain an office at a place or places within the State as it may determine;
- e. To acquire, hold, use and dispose of its income, revenues, funds and moneys;
- f. To acquire, own, lease as lessee or lessor, hold, use, sell, transfer, and dispose of real or personal property for its purposes;
- g. To borrow money and to issue its bonds, notes or other obligations and to secure the same by its revenues or other funds and otherwise to provide for and secure the payment thereof and to provide for the rights of the holders thereof and to provide for the refunding thereof, all as provided in the act;

- h. To issue subordinated indebtedness and to enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements as approved by the authority in connection with the issuance of bonds or notes;
- i. In its own name, in the name of the New Jersey Transit Corporation or in the name of the State, to apply for and receive and accept appropriations or grants of property, money, services or reimbursements for money previously spent and other assistance offered or made available to it by or from any person, government agency, public authority or any public and private entity whatever for any lawful corporate purpose of the authority, including, without limitation, grants, appropriations or reimbursements from the State or federal government with respect to their respective shares under federal aid highway laws of the costs of planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways or the costs of planning, acquisition, engineering, construction, reconstruction, repair, permitted maintenance and rehabilitation of public transportation projects and other transportation projects in the State and the authority's operating expenses and to apply and negotiate for the same upon such terms and conditions as may be required by any person, government agency, authority or entity or as the authority may determine to be necessary, convenient or desirable;
- j. Subject to any agreement with the holders of bonds, notes or other obligations, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds, notes or other obligations, in obligations, securities and other investments as the authority shall deem prudent;
- k. Subject to any agreements with holders of bonds, notes or other obligations, to purchase bonds, notes or other obligations of the authority out of any funds or moneys of the authority available therefor, and to hold, cancel or resell the bonds, notes or other obligations;
- l. For its sole purpose as established in section 5 of this act, to appoint and employ an executive director and such additional officers, who need not be members of the authority and such other personnel and staff as it may require, at an annual expense not to exceed \$100,000.00, all without regard to the provisions of Title 11A of the New Jersey Statutes;
- m. To do and perform any acts and things authorized by the act under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation or any public body;
- n. To procure insurance against any losses in connection with its property, operations, assets or obligations in amounts and from insurers as it deems desirable;
- o. To make and enter into any and all contracts and agreements which the authority determines are necessary, incidental, convenient or desirable to the performance of its duties and the execution of its powers under the act; and
- p. To do any and all things necessary, convenient or desirable to carry out its purposes and exercise the powers given and granted in the act.

27:1B-7. Power to accept and use funds appropriated and paid by state

The authority shall have the power to accept and use any funds appropriated and paid by the State to the authority, including, without limitation, appropriations and payments from the Transportation Trust Fund Account established pursuant to the act, for the purposes for which the appropriations and payments are made.

27:1B-8. Contracts with toll road authorities or state agencies

The authority shall have the power to enter into contracts (or take an assignment of the rights and interests in contracts entered into by the treasurer or commissioner) with each toll road authority or other State agency to provide for payments to it by each toll road authority or other State agency from available revenues of the amount or amounts that may be set forth in, or determined in accordance with, the contract; provided however, that no such contract shall contain specific provisions which direct such toll road authority or other State agency to increase tolls. Subject as aforesaid, each contract, or assignment, may contain conditions and covenants as shall be agreed to by the authority and by the affected toll road authority or other State agency and, in the case of an assignment, as agreed to by the treasurer or commissioner, including but not limited to conditions and covenants necessary and desirable to facilitate the issuance and sale of bonds, notes and other obligations of the authority. The authority may receive and use (and contract for the use of) the amounts paid to it pursuant to the contracts for any one or more of its corporate purposes or powers.

27:1B-9. Bonds, notes or other obligations of authority

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

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

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

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

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

e. Bonds, notes or other obligations of the authority may be sold at public or private sale at a price or prices and in a manner as the authority shall determine, either on a negotiated or on a competitive basis. Every bond, or refunding bond, issued on or after the effective date of P.L.2006, c. 3 (C.27:1B-22.2 et al.) shall mature and be paid no later than 31 years from the date of the issuance of that bond or refunding bond.

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

g. Bonds, notes and other obligations of the authority issued or incurred under the provisions of the act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision or be or constitute a pledge of the faith and credit of the State or of any political subdivision but all bonds, notes and obligations, unless funded or refunded by bonds, notes or other obligations of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in the act. Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon

only from revenues or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on the bonds, notes or other obligations. For the purposes of this subsection, political subdivision does not include the authority.

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

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

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

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

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

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

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

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

27:1B-10. Covenants with holders of bonds, notes or other obligations

In any resolution of the authority authorizing or relating to the issuance of any bonds, notes or other obligations or in any indenture securing the bonds, notes or other obligations, the authority, in order to secure the payment of the bonds, notes or other obligations and in addition to its other powers, shall have the power by provisions therein, which shall constitute covenants by the authority and contracts with the holders of the bonds, notes or other obligations:

a. To pledge all or any part of its revenues or receipts to which its right then exists or may thereafter come into existence and other moneys or funds as the authority shall determine and the moneys derived therefrom, and the proceeds of any bonds, notes or other obligations;

b. To pledge any agreement, including, without limitation, the contract or contracts referred to in section 23 of the act, [contracts with the toll road authorities or other State agencies, and any grant, contract, or agreement with the federal government or the revenues or payments thereunder and the proceeds thereof;

c. To covenant against pledging all or any part of its revenues or receipts or its agreements and the revenues derived thereunder or the proceeds thereof and other moneys or funds as the authority shall determine and the moneys derived therefrom or against permitting or suffering any lien on any of the foregoing;

d. To covenant with respect to limitations on any right to sell, lease or otherwise dispose of any property of any kind;

e. To covenant as to any bonds, notes and other obligations to be issued and the limitations thereof and the terms and conditions thereof and as to the custody, application, investment, and disposition of the proceeds thereof;

f. To covenant as to the issuance of additional bonds, or notes or other obligations or as to limitations on the issuance of additional bonds, notes or other obligations and on the incurring of other debts by it;

g. To covenant as to the payment of the principal of or interest on the bonds, notes, or other obligations, as to the sources and methods of payment, as to the rank or priority of any bonds, notes or obligations with respect to any lien or security or as to the acceleration of the maturity of any bonds,

notes or obligations;

h. To provide for the replacement of lost, stolen, destroyed or mutilated bonds, notes or other obligations;

i. To covenant against extending the time for the payment of bonds, notes or other obligations or interest thereon;

j. To covenant as to the redemption of bonds, notes or other obligations and privileges of exchange thereof for other bonds, notes or other obligations of the authority;

k. Subject to the rights and security interests of the holders from time to time of bonds, notes or other obligations heretofore or hereafter issued by each of the toll road authorities or other State agencies, to covenant as to the enforcement of any term in any agreement entered into pursuant to the act, to which the authority is a party or an assignee, fixing amounts of funds of the toll road authorities or other State agencies to be paid over to and received by the authority in each year or other period of time, including any term concerning the fixing of tolls and other charges by the toll road authorities or other State agencies, at rates as shall be necessary to provide the amounts of funds;

l. To covenant to create or authorize the creation of special funds or moneys to be held in pledge or otherwise for payment or redemption of bonds, notes, or other obligations, reserves or other purposes and as to the use, investment, and disposition of the moneys held in the funds;

m. To establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds, notes or other obligations may be amended or abrogated, the amount of bonds, notes or other obligations the holders of which must consent thereto, and the manner in which the consent may be given;

n. To provide for the release of property, agreements, or revenues and receipts from any pledge and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge;

o. To provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and to prescribe the events of default and the terms and conditions upon which any or all of the bonds, notes or other obligations of the authority shall become or may be declared due and payable before maturity and the terms and conditions upon which any declaration and its consequences may be waived;

p. To vest in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the authority may determine, and to limit the rights, duties and powers of such trustee;

q. To execute all bills of sale, conveyances, deeds of trust and other instruments necessary or convenient in the exercise of its powers or in the performance of its covenants or duties;

r. To pay the costs or expenses incident to the enforcement of the bonds, notes or other obligations or of the provisions of the resolution or of any covenant or agreement of the authority with the holders of its bonds, notes or other obligations;

s. To limit the rights of the holders of any bonds, notes or other obligations to enforce any pledge or covenant securing the bonds, notes or other obligations; and

t. To make covenants, in addition to the covenants herein expressly authorized, of like or different character, and to make covenants to do or refrain from doing acts and things as may be necessary, or convenient and desirable, in order to better secure bonds, notes or other obligations or which in the absolute discretion of the authority will tend to make bonds, notes or other obligations more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

27:1B-11. Pledge of revenues, moneys, funds or other property

Any pledge of revenues, moneys, funds or other property made by the authority shall be valid and binding from the time when the pledge is made; the revenues, moneys, funds or other property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge of revenues, moneys or funds is created need be filed or recorded, except in the records of the authority.

27:1B-12. Immunity from personal liability of members of authority and persons executing bonds

Neither the members of the authority nor any person executing bonds or notes or other obligations issued pursuant to this act shall be liable personally on the bonds, notes or other obligations by reason of the issuance thereof.

27:1B-13. Reserves, funds or accounts

The authority may establish reserves, funds or accounts as may be, in its discretion, necessary or desirable to further the accomplishment of the purposes of the authority or to comply with the provisions of any agreement made by or any resolution of the authority.

27:1B-14. Pledge of state to not alter or limit rights or powers vested in authority

The State does hereby pledge to and covenant and agree with the holders of any bonds, notes or other obligations issued or incurred pursuant to the authorization of the act that the State will not limit or alter the rights or powers hereby vested in the authority in any way that would jeopardize the interest of the holders or inhibit or prevent performance or fulfillment by the authority of the terms of any agreement made with the holders of the bonds, notes or other obligations, or prevent the authority from obtaining sufficient revenues which, together with other available funds, shall be sufficient to meet all expenses of the authority and fulfill the terms of any agreement made with the holders of the bonds, notes or other obligations, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, or from receiving payment of funds of the toll road authorities or other State agencies, as provided in any

agreement provided for in the act, until the bonds, notes or other obligations, together with interest thereon, are fully met and discharged or provided for. The standards required to be followed by the State in complying with the foregoing covenant shall be no more or less restrictive than the standards required to be followed by the State under its covenants with the toll road authorities in section 7 of P.L.1948, c. 454 (C. 27:23-7), section 11 of P.L.1952, c. 16 (C. 27:12B-11) and section 41 of P.L.1962, c. 10 (C. 27:12C-41). The failure of the State to appropriate moneys for any purpose of the act shall not be deemed or construed to be a violation of this section.

27:1B-15. Bonds or notes as legal investments

The State and all public officers, governmental units and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or notes issued pursuant to the act, and the bonds or notes shall be authorized security for any and all public deposits.

27:1B-16. Tax exemption; property of authority; bonds, notes or other obligations

All property of the authority is declared to be public property devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any political subdivision thereof. All bonds, notes or other obligations issued pursuant to the act are hereby declared to be issued by a body corporate and politic of the State and for an essential public and governmental purpose and the bonds, notes and other obligations, and the interest thereon and the income therefrom, and all funds, revenues, income and other moneys received or to be received by the authority and pledged or available to pay or secure the payment of the bonds, notes and other obligations, or interest thereon, shall at all times be exempt from taxation, except for transfer inheritance and estate taxes.

27:1B-17. Annual report and audit; filing; examination of accounts and books; review of implementation of act and operation of authority; project status reports

On or before the first day of September in each year the authority shall make an annual report of its activities for the preceding fiscal year to the Governor and to the Legislature, in addition to responding to other requests made by the Legislature from time to time. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof shall be considered an expense of the authority and a copy thereof shall be filed with the Comptroller of the Treasury. Notwithstanding the provisions of any law to the contrary, the State Auditor or his legally authorized representative may examine the accounts and books of the authority.

Not later than the end of the fourth year following the effective date of this act, the Senate

Transportation and Communications Committee and the Assembly Transportation, Communications and High Technology Committee, or their successors, shall undertake a review of the implementation of this act and of the operation of the authority and make such recommendations as they deem necessary.

The department shall, from time to time, but not less than every six months, report to the Senate Transportation and Communications Committee and the Assembly Transportation, Communications and High Technology Committee on the status of each project, including public highways, financed pursuant to this act. The report shall also include information on major changes in project status or major impediments to the accomplishment of the planned projects.

27:1B-18. Services to authority by other governmental units; payment of costs

All officers, departments, boards, agencies, divisions and commissions of the State are hereby authorized and empowered to render any and all services to the authority as may be within the area of their respective governmental functions as fixed or established by law, and as may be requested by the authority. Insofar as possible, the cost and expense of any services shall be met and provided for by such officers, departments, boards, agencies, divisions and commissions.

27:1B-19. Rules and regulations

The commissioner is authorized to adopt such rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), as he deems necessary to effectuate the purposes of the act.

27:1B-20. Transportation Trust Fund Account; establishment; credits; payments

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

- a. An amount equivalent to the revenue derived from \$0.105 per gallon from the tax imposed on the sale of motor fuels pursuant to chapter 39 of Title 54 of the Revised Statutes, as provided in Article VIII, Section II, paragraph 4 of the State Constitution, provided, however, such amount during any fiscal year shall not be less than \$483,000,000;
- b. (Deleted by amendment, P.L.2000, c. 73).
- c. An amount equivalent to moneys received by the State in accordance with contracts entered into with toll road authorities or other State agencies, provided that effective with the fiscal year beginning July 1, 1988 the amount so credited shall not be less than \$24,500,000.00 in any fiscal year.

The treasurer shall also credit to this account, in accordance with a contract between the treasurer and

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

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

d. In addition to the amount credited in subsection a. of this section, beginning January 1 following approval by the voters an amount equivalent to the revenue derived from the tax imposed on the sale of petroleum products pursuant to P.L.1990, c. 42 (C.54:15B-1 et seq.), provided, however, such amount shall not be less than \$100,000,000 in the period January 1 through June 30 following approval by the voters and shall not be less than \$200,000,000 in any fiscal year thereafter and for the fiscal year commencing July 1, 2001 and for each fiscal year thereafter an amount equivalent to the revenue derived from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c. 30 (C.54:32B-1 et seq.) on the sale of new motor vehicles, provided, however, that such amount shall not be less than \$200,000,000 for the fiscal year commencing July 1, 2003 and for each fiscal year thereafter, as provided in Article VIII, Section II, paragraph 4 of the State Constitution.

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

27:1B-21. Special Transportation Fund

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

b. The department shall not expend any money except as appropriated by law. Commencing with

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

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

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

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

f. There shall be no appropriations from the revenues and other funds of the authority for regular and routine maintenance of public highways and components thereof, or operational activities of the department unrelated to the implementation of, and indirect costs associated with, the capital program. The commissioner shall include in his annual budget request sufficient funding to effectuate the purposes of P.L.2000, c. 73 (C.27:1B-21. 14 et al.).

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

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

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

27:1B-21.1. Reports of amounts for proposed projects; limitations; appropriations; review by State Auditor

a. Commencing with the report of the commissioner, as may be amended, required to be submitted pursuant to section 22 of P.L.1984, c. 73 (C.27:1B-22) on or before March 1, 2006 and on each succeeding March 1 thereafter through March 1, 2010, the annual amount so reported by the commissioner for proposed projects shall not exceed \$1,600,000,000 exclusive of federal funds.

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

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

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

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

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

27:1B-21.2, 27:1B-21.3. Repealed by L.1995, c. 108, § 18, eff. May 30, 1995

27:1B-21.2, 27:1B-21.3. Repealed by L.1995, c. 108, § 18, eff. May 30, 1995

27:1B-21.4. Utilization of funds; allocation of costs

The State amount appropriated from the revenues and other funds of the authority for any fiscal year commencing on or after July 1, 1995 may be utilized for any cost incurred in direct or indirect support or advancement of transportation projects authorized by the annual appropriations act, except that indirect costs shall not include the cost of routine operation and routine maintenance of a transportation project, or costs associated with the non-capital programs of the department and the New Jersey Transit

Corporation. Costs which directly or indirectly support or advance more than one transportation project may be allocated among those projects in a manner the commissioner finds reasonable, provided such costs are equitably and uniformly distributed among all work that was performed during the fiscal year or accounting period. The rate of indirect costs appropriated from the State amount in any fiscal year shall not exceed the indirect cost rate additive, as calculated pursuant to the United States Office of Management and Budget Circular A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Governments," applicable to federal funds.

27:1B-21.5. Authority of commissioner; loans; approval; annual reports

a. Notwithstanding the provisions of any other law to the contrary, the commissioner is authorized to enter into agreements with public or private entities or consortia thereof for the loan of federal funds appropriated to the department for the purpose of financing all, or a portion of, the costs incurred for the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of a transportation project by that public or private entity or consortia thereof.

b. The commissioner, with the approval of the State Treasurer, shall establish rules and regulations governing the qualifications of the applicants, the application procedures, the criteria for awarding loans, and the standards for establishing the amount, terms and conditions of each loan. The rules and regulations shall provide that the term of the loan agreement shall be consistent with terms and conditions as provided by applicable federal law.

c. Loans granted pursuant to this section shall be considered an investment or reinvestment of Special Transportation Fund funds within the meaning of subsection a. of section 21 of P.L.1984, c. 73 (C.27:1B-21). Payments of interest and principal on loans granted pursuant to this section shall be credited to a special subaccount of the Special Transportation Fund and may be used for financing authorized projects. Monies appropriated from the special subaccount pursuant to this section shall be in addition to the total State amount authorized to be appropriated in a fiscal year pursuant to section 8 of P.L.1987, c. 460 (C.27:1B-21.1).

d. Each loan made pursuant to this section shall require the specific approval of the Joint Budget Oversight Committee, except for those loans agreed to by the commissioner as part of an agreement for a demonstration project approved pursuant to P.L.1997, c. 136 (C.27:1D-1 et al.). The Chairman of the Joint Budget Oversight Committee may request periodic reports from the commissioner on the status of any or all loans. The commissioner shall provide reports so requested on a timely basis.

e. Transportation projects which are the subject of a loan agreement entered into pursuant to this section shall be included in the annual report of proposed projects prepared pursuant to section 22 of P.L.1984, c. 73 (C.27:1B-22) for the fiscal year in which the loan amount for those projects is to be appropriated.

27:1B-21.6. Funding agreements for transportation projects

The commissioner or the board of the New Jersey Transit Corporation with the approval of the commissioner is authorized to enter into agreements for a period of years for the advancement of a transportation project to be funded by future year appropriations to the authority, except that, in the

case of a transportation project involving appropriations in excess of \$100,000,000 in any fiscal year, the agreement shall be subject to approval of the Joint Budget Oversight Committee. The commissioner or the board of the New Jersey Transit Corporation may pledge grant monies or funds anticipated to be appropriated to those transportation projects in those agreements, provided, however that payment of monies pledged is subject to the availability of funds in the year in which the funds are to be appropriated. Any transportation project which is the subject of an agreement authorized by this section shall appear in the annual report of proposed projects prepared pursuant to section 22 of P.L.1984, c. 73 (C. 27:1B-22) for each fiscal year in which the agreement is in effect and the report shall indicate the amount to be appropriated, if any, to the project in the upcoming fiscal year.

27:1B-21.7. Closing accounts; expenditure of remaining funds

a. After the commissioner has determined that a project financed through the authority has been completed, the commissioner may direct that any account established for such project be closed, provided that the funds in any such account are less than \$1,000,000. The commissioner may further direct that any appropriated funds remaining in such closed accounts be credited to a special subaccount of the Special Transportation Fund. In the event that an account for a project that has been completed exceeds \$1,000,000, the account shall not be closed and the funds credited to the special subaccount unless such action is approved by the Joint Budget Oversight Committee.

b. Subject to approval by the State Treasurer, the commissioner may expend funds from the special subaccount established pursuant to subsection a. of this section for any purpose for which the Legislature has previously appropriated funds and which the authority is authorized to undertake pursuant to section 5 of P.L.1984, c. 73 (C. 27:1B-5). Any claims or costs which would have been paid from an account closed pursuant to this section may be paid from the special subaccount established pursuant to subsection a. of this section, or from any other funds appropriated for such purposes.

27:1B-21.8. Credits to airport safety fund

Each year a nonlapsing sum of money shall be appropriated from funds held in the Special Transportation Fund, established pursuant to section 21 of P.L.1984, c. 73 (C.27:1B-21), and credited to the Airport Safety Fund, established in the General Fund pursuant to section 4 of P.L.1983, c. 264 (C.6:1-92), for use for any purpose pursuant to the "New Jersey Airport Safety Act of 1983," P.L.1983, c. 264 (C.6:1-89 et al.) and that sum shall be included in the annual report of projects prepared pursuant to section 22 of P.L.1984, c. 73 (C.27:1B-22). Funds so appropriated shall no longer be subject to the provisions and limitations of chapter 1B of Title 27 of the Revised Statutes, but instead shall be subject to the provisions and limitations of P.L.1983, c. 264 (C.6:1-89 et al.).

27:1B-21.9. Appropriation for operating expenses of New Jersey transit corporation

Notwithstanding any other provision of law to the contrary, in any fiscal year in which the amount allocated by the Federal Government to the New Jersey Transit Corporation for public transportation operating expenses is less than in the previous fiscal year, an amount equal to the diminution may be appropriated from the revenues and other funds of the authority, excluding bond proceeds, to the

department for the operating expenses of the New Jersey Transit Corporation, subject to approval therefor provided in the annual appropriations act.

27:1B-21.10. Definitions

As used in this act:

"Federal infrastructure bank program" means the United States Department of Transportation State Infrastructure Bank Program provided for in section 350 of Pub.L.104-59 and Pub.L.102-240 as amended or superseded.

"Other assistance" means forms of financial assistance, in addition to loans, authorized by the federal infrastructure bank program, including, but not limited to, use of funds to: provide credit enhancements; serve as a capital reserve for bond or other debt instrument financing; subsidize interest rates; ensure the issuance of letters of credit and credit instruments; finance purchase and lease agreements with respect to transit projects; and provide bond or other debt financing instrument security.

27:1B-21.11. State Transportation Infrastructure Bank established

a. There is hereby established a special non-lapsing, revolving subaccount of the Special Transportation Fund to be known as the "State Transportation Infrastructure Bank" which shall be credited with: State and federal funds appropriated to the State Transportation Infrastructure Bank, monetary donations made available to the State to support the State Transportation Infrastructure Bank program and any monies received as repayment of the monies loaned or otherwise provided pursuant to this act. The commissioner may establish subaccounts of the State Transportation Infrastructure Bank as may be required by the federal infrastructure bank program. The commissioner shall administer and maintain the State Transportation Infrastructure Bank in accordance with the provisions of the federal infrastructure bank program.

b. Monies in the State Transportation Infrastructure Bank shall be used to provide loans or other assistance to public or private entities or consortia thereof for the purpose of financing all or a portion of the costs incurred for the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of a transportation project or for any other purpose permitted under the federal infrastructure bank program.

c. Loans or other assistance granted pursuant to this section shall be considered an investment or reinvestment by the State Transportation Infrastructure Bank consistent with the federal infrastructure bank program and not a loan within the meaning of section 12 of P.L.1995, c. 108 (C.27:1B-21.5).

27:1B-21.12. Commissioner; authority to enter into agreements; mandatory reports

a. The commissioner is authorized to enter into agreements with public or private entities or consortia

thereof for the use of monies from the State Transportation Infrastructure Bank to provide loans or other assistance for the purpose of financing all or a portion of the costs incurred for the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of a transportation project or for any other purpose permitted under the federal infrastructure bank program. The terms of the agreements shall be consistent with the requirements of the federal infrastructure bank program.

b. The commissioner shall report periodically, and at least annually, on the status of the State Transportation Infrastructure Bank program to the Joint Budget Oversight Committee or its successor.

27:1B-21.13. Adoption of rules and regulations

The commissioner shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), governing the State Transportation Infrastructure Bank Program.

27:1B-21.14. Short title

Sections 1 through 14 and 23 through 25 and section 27 of this act shall be known and may be cited as the "Congestion Relief and Transportation Trust Fund Renewal Act."

27:1B-21.15. Legislative findings

The Legislature hereby finds and declares that:

- a. A balanced and improved transit and goods movement and highway system is of key importance to our State's continued prosperity and to the quality of life of our citizens.
- b. The State's citizens and businesses require a transportation system which provides adequate mobility to all of its citizens utilizing all modes.
- c. The State should consider and utilize, where appropriate, transportation approaches and concepts to reduce congestion, enhance mobility, discourage sprawl, and assist in the redevelopment of our cities, enhance suburbs and town centers, and otherwise improve the quality of life of our citizens.
- d. Stable and adequate dedicated funding is a prerequisite to the sensible planning of transportation projects, most of which are conceived, planned, designed and built over a span of several years.
- e. Additional investment is needed to bring the public highway and bridge system into a state of good repair, to reduce the backlog of infrastructure repair jobs, to maximize rail freight capacity, to promote bicycle and pedestrian safety, and to promote cycling and walking trips by providing and financing appropriate infrastructure.
- f. Ferries and ferry facilities, including those providing interstate service to points in New Jersey, are an increasingly important component of the State's intermodal transportation system and should be eligible

for transportation assistance from the State.

g. The system of financing under the New Jersey Transportation Trust Fund Authority has provided a stable source of funds to keep our transportation system in good repair and to provide funding for important new projects which have enhanced that system.

h. The renewal and improvement of the system of financing under the New Jersey Transportation Trust Fund Authority and a significant increase in the funding of that system are necessary to achieve the aforementioned goals and can be achieved without the necessity of increasing taxes.

27:1B-21.16. Use of best available technology

The Commissioner of Transportation (hereinafter, "the commissioner") shall establish and implement a program to employ the best available technology to improve traffic signal operation throughout the State so as to avoid unnecessary delays, reduce air pollution, and allow traffic to move sequentially through signals on roads and highways throughout the State without stopping, to the greatest extent practicable without endangering or limiting pedestrian travel.

27:1B-21.17. Report; recommended incentives

No later than March 31, 2001, the commissioner shall submit a report to the Legislature containing recommended incentives to businesses to encourage a reduction in single occupancy trips.

27:1B-21.18. Report; identification of telecommuting opportunities

No later than January 1, 2001, the Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth Commission, in consultation with the commissioner and the State Treasurer, shall submit a report to the Legislature containing a program to identify sectors of the economy, or specific occupations, which are appropriate for telecommuting to increase telecommuting in the State.

27:1B-21.19. State highways; context sensitive design

Many State highways run through fully developed cities and suburban towns. In addition, many small villages in rural areas have State highways which pass through built-up residential areas or village centers. The traffic on many of these State highways, particularly large truck and speeding traffic, prevents these residential areas, town centers and future town centers from functioning as intended. The commissioner shall study this issue and develop a departmental program which authorizes context sensitive design and examines the functional classifications of State highways running through developed cities and suburban towns. As used in this section, "context sensitive design" means a planning technique that embraces a collaborative, interdisciplinary process and recognizes the uniqueness of the community in planning transportation projects.

27:1B-21.20. Report; measures to improve safety of large trucks

The commissioner shall report to the Legislature not later than January 1, 2001, on measures undertaken by the department and measures it recommends as necessary to improve the safety or to mitigate adverse impacts of large trucks which travel on New Jersey State and local roadways.

27:1B-21.21. Installation of LED lighting in traffic signals

The commissioner shall install light emitting diodes lighting ("LED lighting"), or lighting similar in energy and life cycle savings, in traffic signals on the State highway system from the amounts appropriated from the revenues and other funds of the New Jersey Transportation Trust Fund Authority. It is anticipated that this lighting will result in operational energy savings for State, county and municipal governments and provide congestion relief because the diodes have a 10-year life cycle as compared to the one year replacement cycle for regular light bulbs. The State shall develop a program to assist local governments to install LED lighting or lighting similar in energy and life cycle savings, in approved local traffic signals throughout the State. The commissioner may consult with the State's public utility companies for assistance where appropriate to implement this program.

27:1B-21.22. Payment Preservation and Preventative Maintenance Program

There is hereby established in the Department of Transportation, a Pavement Preservation and Preventive Maintenance Program. In furtherance of this program, the commissioner shall utilize cost-effective road materials, surface treatments and base rehabilitation methodology including, but not limited to, micro-surfacing, white topping and cold-in-place recycling. These cost-effective materials, surface treatments and methodologies shall be used in conjunction with standard road materials and surface treatments including, but not limited to, superpave, asphalt milling, asphalt overlays and crack sealing. The commissioner shall authorize the use of cost-effective materials, surface treatments and methodologies where deemed appropriate by the department, but they shall be utilized as a regular and integral part of the road preservation and maintenance program, and in a manner sufficient to provide for safe roads as provided for in this act.

27:1B-21.23. Evaluation of roadway pavements; assignment of numerical ratings

The commissioner shall continue to evaluate roadway pavements on the State highway system and assign numerical ratings to roads for maintenance and repair similar to any nationally recognized method.

27:1B-21.24. Report; numerical ranking of pavements

The commissioner shall issue a report to the Governor and the Legislature at the end of each fiscal

year containing the numerical ranking of pavements for roads needing maintenance and repair in accordance with the method developed in section 10 of this act. The report shall also identify the repair and maintenance projects that were completed during the fiscal year, including an estimate of the cost impact to the department for each maintenance and repair project that utilized road surface material or treatment.

27:1B-21.25. Life cycle cost analysis and report

The commissioner shall conduct a life cycle cost analysis of pavement surfaces and report the findings of the analysis to the Governor and the Legislature no later than one year after the date of enactment of this act. The analysis shall compare equivalent designs and shall be based upon New Jersey's actual historic project maintenance, repair and resurfacing schedules and costs as recorded by the Department of Transportation, and shall include estimates of user costs throughout the entire life of the pavement. As used in this section, "life cycle cost" means the total cost of the initial project and all anticipated costs for subsequent maintenance, repair or resurfacing over the life of the pavement.

27:1B-21.26. Congestion Buster Task Force; members; organization; study; hearings; dissolution

a. There is created in the Department of Transportation a task force to be known as the "Congestion Buster Task Force" to study and make recommendations concerning the reduction of traffic congestion in the State.

The members of the task force shall be appointed by the commissioner in such number as the commissioner shall designate from the Department of Transportation, the New Jersey Transit Corporation, business organizations, Transportation Management Associations, the counties, and members of the public.

b. The task force shall organize as soon as may be practicable after the appointment of its members and shall select a chairperson from among the members. The members shall select a secretary, who need not be a member of the task force.

The task force shall meet at the call of the chairperson.

The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State department, board, bureau, commission or agency, as it may require and as may be available for its purposes, and to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

c. The task force shall conduct a study of highway traffic congestion in the State and develop a commuter options plan that would result in peak hour vehicle trips being "capped" at 1999 levels.

In developing the plan, the task force shall review relevant information and findings from other jurisdictions, both national and international. The plan shall include, but not be limited to, resources and incentives for public transportation, ridesharing, telecommuting and other travel reduction strategies. In making its recommendations for the plan, the task force shall include funding proposals,

an implementation of the plan, and a method of evaluating progress toward the realization of the goal of the plan to cap peak hour vehicle trips at 1999 levels.

The task force shall also be charged with identifying the top 10 projects which can be quickly implemented to relieve congestion or improve safety.

d. The task force may meet and hold public hearings at such place or places as it shall designate and shall issue a final report containing its findings and recommendations, including any recommendations for legislation that it deems appropriate, no later than one year after the task force organizes, to the Governor, the President of the Senate and the Speaker of the General Assembly, and the members of the Senate Transportation Committee and the Assembly Transportation Committee, or the successor committees.

e. The task force shall dissolve one year following organization of the task force.

27:1B-21.27. Report; establishment or expansion of park-and-ride facilities

No later than July 1, 2001, the commissioner shall report to the Governor and the Legislature on steps which the commissioner recommends to provide for the establishment or expansion of park-and-ride facilities in areas of traffic congestion throughout the State and shall establish a goal of establishing or expanding at least two park-and-ride facilities in each of the successive 2001- 2002, 2002-2003, 2003-2004 and 2004-2005 fiscal years. In the event that the department does not establish or expand at least two park-and-ride facilities in each of the preceding fiscal years, the commissioner shall report to the Governor and the Legislature the reasons for the failure to establish or expand such facilities.

27:1B-21.28. Savings; funding of transportation projects

Any savings in the amount of debt service realized as a result of the sale of refunding bonds by the authority shall only be used to fund transportation projects.

27:1B-21.29. Other credit

In addition to those funds to be credited to the "Transportation Trust Fund Account" pursuant to section 20 of P.L.1984, c. 73 (C.27:1B-20), the State Treasurer shall also credit to the account any and all additional funds which may now or hereafter be dedicated to transportation purposes by the State Constitution.

27:1B-21.30. Specific authorization by joint resolution

No new State highway route shall be constructed using the revenues and other funds of the authority unless specifically authorized by joint resolution. Nothing in this section shall impair the commissioner's authority to modify, extend or widen existing State highway routes.

27:1B-21.31. Repealed by L.2006, c.3, § 10, eff. March 23, 2006

27:1B-21.32. Use of reclaimed asphalt pavement; state highways

a. Notwithstanding any law, rule or regulation to the contrary, the Commissioner of Transportation shall permit for public highways under the jurisdiction of the Department of Transportation the use of reclaimed asphalt pavement that constitutes a maximum of 25 percent by weight of the total pavement mixture for base and intermediate pavement courses and a maximum of 15 percent by weight of the total pavement mixture for surface pavement courses.

b. The commissioner shall permit for public highways under the jurisdiction of the department the use of reclaimed asphalt pavement that constitutes from 25 to 50 percent by weight of the total pavement mixture for base and intermediate pavement courses, after an evaluation of the material properties of the reclaimed asphalt pavement in a "closed system" project. A "closed system" project is defined as a project on which the asphalt millings from the project are recycled back into the hot mix asphalt on that same project.

c. Reclaimed asphalt pavement shall not be used for open-graded and modified open-graded friction courses, or any other special purpose or premium asphalt mix required in specific projects to increase pavement skid resistance.

27:1B-22. Transportation Master Plan; Statewide Capital Investment Strategy; Annual Transportation Capital Program; Transportation Trust Fund Authority Financial Plan; Five-year Capital Plan; preparation and submission of reports

The commissioner shall prepare and submit the following reports to the Governor, the Legislature, and the Financial Policy Review Committee, established pursuant to section 6 of P.L.2006, c. 3 (C.27:1B-22.2) under the terms set forth below: a Transportation Master Plan, a Statewide Capital Investment Strategy, an Annual Transportation Capital Program, a Transportation Trust Fund Authority Financial Plan, and a Five-Year Capital Plan.

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

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

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

fiscal year the board of the corporation shall by resolution submit a report to the Legislature detailing its inability to meet the requirements and the reasons therefor and shall submit the report to the Senate and General Assembly when both houses are in session, including therein a request to be exempted from the bus purchase requirements of this section with regard to the fiscal year in question. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly. If a joint resolution approving the exemption is passed by the Legislature and signed by the Governor prior to the commencement of the fiscal year in question, the corporation shall be exempt from the requirements for that fiscal year.

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

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

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

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

e. The Statewide Capital Investment Strategy, the Annual Transportation Capital Program, and the Transportation Trust Fund Authority Financial Plan shall be submitted to the Senate and General Assembly. Within 45 days of the receipt thereof, the Senate or the General Assembly may object in writing to the commissioner in regard to any project or projects in the Annual Transportation Capital Program it disapproves or which it is of the opinion should be modified or added to or any additional or

alternative projects considered or in regard to any element of the financial plan. The commissioner shall consider the objections and recommendations and resubmit the report within 10 days, containing therein any modifications based upon the commissioner's consideration of the objections or recommendations.

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

27:1B-22.1. Projects necessary for completion of circle of mobility; appropriations; schedule for completion

a. The Commissioner of Transportation shall annually include in the list of proposed projects submitted to the Legislature pursuant to section 22 of P.L.1984, c. 73 (C. 27:1B-22) annual funding for such projects as are necessary to complete the Circle of Mobility, as defined in section 3 of P.L.1984, c. 73 (C. 27:1B-3). The Legislature shall annually appropriate from the revenues and other funds of the New Jersey Transportation Trust Fund Authority such sums as are necessary to effectuate this completion.

b. The New Jersey Transit Corporation shall proceed expeditiously to complete the Circle of Mobility. To insure adherence to this requirement, the corporation shall provide a schedule for this completion, as well as periodic progress reports on the status of the various projects comprising the Circle of Mobility, including but not limited to project descriptions, the construction status to date of each project, additional work required, together with related time schedules to complete each project, the amounts and sources of funds appropriated to date and the estimated additional amounts and sources of funds needed to complete each project, and any modification to the original scope of a project, to the Senate Transportation Committee, the Assembly Transportation and Communications Committee, the Senate Legislative Oversight Committee, and the Assembly Regulatory Oversight Committee, with the schedule due 60 days after the effective date of this act and the progress reports at six month intervals thereafter.

27:1B-22.2. Financial Policy Review Board; establishment and membership; powers and duties; annual preparation of State of Condition of Transportation Financing certification; corrective action plan

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

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

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

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

action plan that would offset the excess amount spent, or the excess amount appropriated, in the prior year with less funding for permitted maintenance or for projects, as the case may be, in the proposed capital budget request. Upon approval of the corrective action plan by the board, a certification as to these matters shall be issued with certain conditions. The Annual Transportation Capital Program submitted to the Legislature for the forthcoming year shall be in compliance with the provisions of the corrective action plan. If the board does not approve the corrective action plan, the authority shall submit a financial plan showing bonding only for existing projects, noting that no bonds shall be issued for new projects shown in the department's Annual Transportation Capital Program.

27:1B-22.3. Reports on revenues and other funds of the authority

The Department of Transportation shall report to the Governor and the Legislature on September 1, 2008 and on September 1, 2010 on the amount of revenues and other funds of the authority which have been expended on permitted maintenance and on salaries and overhead of the department and the corporation in the previous two fiscal years respectively. In the reports the department shall provide reasons as to why the reported expenditure levels are appropriate and in the public interest. In addition, the department shall detail steps that have been undertaken to reduce expenditures for these purposes after June 30, 2006.

27:1B-23. Contracts by treasurer, commissioner and authority

In order to implement the arrangement provided for in the act, the treasurer, the commissioner and the authority are hereby authorized to enter into one or more contracts. The contracts shall commence with the fiscal year beginning July 1, 1984, and provide for the credit to the Transportation Trust Fund Account in the amounts provided for in section 20 of the act and for the payment to the authority of the amounts credited to the Transportation Trust Fund Account in accordance with the provisions of section 20 of the act. The contracts shall also provide for the payment by the authority of the amounts provided for in section 21 of the act and for expenditures from the Special Transportation Fund, as provided in section 21 of the act. The contract or contracts shall be on terms and conditions as determined by the parties and may contain terms and conditions necessary and desirable to secure the bonds, notes and other obligations of the authority, provided, however, that the incurrence of any obligation by the State under the contract or contracts, including any payments to be made thereunder from the Transportation Trust Fund Account or the Special Transportation Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of the act.

27:1B-24. Expenditures with firms owned and controlled by socially and economically disadvantaged individuals and by women

Subject to those definitions and procedures as the commissioner may prescribe by regulation, with respect to moneys appropriated or authorized pursuant to this act and expended with private firms for construction and professional services, not less than 10% of the moneys shall be expended, either directly or through subcontracting requirements, with business concerns owned and controlled by socially and economically disadvantaged individuals and, in addition to and exclusive of this

requirement, not less than 4% of the moneys shall be expended, either directly or through subcontracting requirements, with business concerns owned and controlled by women.

27:1B-25. State aid to counties and municipalities; additional funding to Local County Aid Program

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

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

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

$$DF = \frac{P_c}{P_s} + \frac{C_m}{S_m}$$

where, DF equals the distribution factor

Pc equals county population

Ps equals State population

Cm equals municipal road mileage within the county

Sm equals municipal road mileage within the State.

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

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

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

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

27:1B-25.1. Aid to counties and municipalities; basis of aid

Aid to counties and municipalities administered by the department may, at the discretion of the commissioner, be disbursed to any individual county or municipality on a grant basis or on a cost reimbursement basis. Distribution of the portion of the grant provided initially to a county or municipality may be contingent on its performance in spending prior grants.

27:1B-25.2. Use of reclaimed asphalt pavement; public highways

Notwithstanding any law, rule or regulation to the contrary, counties and municipalities receiving State funds for transportation projects shall permit for public highways under their jurisdiction the use of

reclaimed asphalt pavement that constitutes a maximum of 25 percent by weight of the total pavement mixture for base and intermediate pavement courses and a maximum of 15 percent by weight of the total pavement mixture for surface pavement courses.

27:1B-25.3. Evaluation of reclaimed asphalt pavement in closed system projects

Counties and municipalities receiving State funds for transportation projects shall permit for public highways under their jurisdiction the use of reclaimed asphalt pavement that constitutes from 25 to 50% by weight of the total pavement mixture for base and intermediate pavement courses, after an evaluation of the material properties of the reclaimed asphalt pavement, in a "closed system" project. A "closed system" project is defined as a project on which the asphalt millings from the project are recycled back into the hot mix asphalt on that same project.

27:1B-25.4. Prohibited uses

Reclaimed asphalt pavement shall not be used for open-graded and modified open-graded friction courses, or any other special purpose or premium asphalt mix required in specific projects to increase pavement skid resistance.

27:1B-26. Budgets of counties and municipalities; inclusion of and commitments against state aid

It shall be lawful for each county and municipality, upon notification by the commissioner of approval for and the amount of State aid allocated to a project, to include an amount equal to the amount of such State aid in its annual budget and any amendments and supplements thereto. Immediately thereafter, commitments may be made by counties and municipalities against the amounts so included in their budgets and amendments and supplements thereto.

27:1B-27. Counties and municipalities; temporary state aid anticipation notes

When the commissioner shall notify the governing body of a county or municipality of the amount of State funds allocated to a project, the governing body may borrow money on temporary loan to an amount not to exceed the amount of the State funds allocated to the project, in anticipation of the payment of the amount of State funds so allocated to the county or municipality, and may apply the proceeds of the loan to the payment of the cost of the project. The temporary loan shall be repaid upon payment to the county or municipality of the sum, in anticipation of payment of which the loan was made.

27:1B-28. Act not to limit, alter or impair rights and security of holders under contracts

Nothing in the act shall be deemed or construed so as to limit, alter or impair in any way the rights and obligations of the toll road authorities or other State agencies under the provisions of the contracts made with the holders from time to time of bonds and notes heretofore or hereafter issued by said toll road authorities or other State agencies or in any way impair the rights and security of the holders under the contracts.

27:1B-29. Severability

If any clause, sentence, paragraph, section or part of the act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

27:1B-30. Liberal interpretation of act

This act shall be interpreted liberally to effect the purposes set forth herein.

27:1B-31. Act as supplemental and additional to powers conferred by other laws; inconsistent acts subordinate to this act

This act shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized hereby and shall be deemed and construed to be supplemental and additional to any powers conferred by other laws on public agencies and not in derogation of any such powers now existing, provided that, insofar as the provisions of this act are inconsistent with the provisions of any other law, general, special or local, now in existence or hereafter (unless with specific reference to this act) adopted, the provisions of this act shall be controlling.