

New Jersey. County and Municipal Law Re-
vision Commission

Proposed letter of transmittal

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December 17, 1959

Proposed letter of transmittal

To the Senate and General Assembly:

The County and Municipal Law Revision Commission herewith submits its first legislative report in furtherance of its duty to revise Title 40 of the Revised Statutes.

This report contains Chapter 1, General Provisions, Chapter 2, Local Bond Law, Chapter 4, Local Budget Law, Chapter 5, Fiscal Affairs Law, of a proposed Title 40A, Municipalities and Counties. Chapter 3 has been omitted from this report; it is recommended that it ultimately contain the Local Revenue Bond Law, a draft of which will be forthcoming at a later date.

The proposed substantive and editorial revisions which are recommended by this Commission are described hereinafter in detail. Substantive change in existing law is intended only in those sections described hereafter.

CHAPTER 1. GENERAL PROVISIONS

This is an entirely new chapter.

40A:1-1. Definitions. This section contains definitions of terms used commonly throughout all of Title 40A. In addition to these general definitions applicable to all of the title.

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each chapter will contain definitions of terms which apply only to the specific chapter. It is anticipated that as the revision work progresses new definitions will be added to this section.

40A:1-2 to 40A:1-10. These sections relate to the legal effect of the revision, the classification and arrangement of sections, its construction with prior law, severability of its sections and the applicability of R.S. 1:1 et seq. By enacting these sections into law and stating them in general terms so that they apply to all of Title 40A, it will be unnecessary to repeat these sections again as each of the forthcoming chapters of the revision are enacted.

CHAPTER 2. LOCAL BOND LAW

The local bond law was enacted in 1935 as a general revision of the Pierson Bond Act of 1916. It was, in 1935, and is to some extent today, the leader in those state-wide general municipal bonding control laws which have done so much to make the general obligation bonds of United States municipalities prime investments acceptable in all financial markets.

The local bond law of 1935, together with the local budget law of 1937, helped New Jersey through the period of reorganization from municipal defaults to an improved credit

position. During the 23 years since its enactment, the local bond law emerged as a model for the so-called "model bond law" recommended for consideration by other states. Because the present law is an essentially sound law, the Commission acted cautiously in providing for changes.

The first draft of this revision was prepared by George C. Skillman, Director, Division of Local Government, Department of the Treasury, and Charles DeF. Besore, Chief Counsel and Executive Director, Law Revision and Legislative Services, with the assistance of Clive S. Cummis, Counsel to the Commission.

Suggestions made by Henry E. Russell and John T. Trimble, bonding attorneys of New York City, were incorporated in it. Three hundred copies of this first draft were distributed to interested persons, groups and public officials throughout the State of New Jersey, with a request inviting suggestions and criticisms. The draft and suggestions were then turned over to an advisory committee of experts appointed by Governor Robert B. Meyner.

The committee consisted of Clifton T. Barkalow, Lawrence A. Carton, Jr., Daniel DeBrier, and Arthur B. Smith, municipal attorneys, Leo A. McCarthy, Henry E. Russell, John T. Trimble and David M. Wood, bonding attorneys, Louis S. Korb and Joseph J. Seaman, municipal auditors, as well as Director Skillman.

In addition, Charles DeF. Besore' and F. Colman Greene cooperated with the advisory committee and aided in its work. This group reflected a wide variety of view and professional experience.

The committee met on numerous occasions for the purpose of examining the draft. A stenographic record of the proceedings was taken, and following each meeting the record was transcribed and sent to each member of the committee and to each member of the Commission for their review. At the close of the last meeting, all the recommendations finally adopted by the committee were incorporated into a formal report which was presented to the Commission. The committee and the Commission then met jointly several times to review the committee's report and pass upon its recommendations. The recommendations of the committee which were accepted by the Commission were incorporated into a second draft and sent to each member of the committee and each member of the Commission for further review. This second draft was then comprehensively reviewed by the Commission staff which made some corrections and changes. The final draft was then presented to the Commission. Members of the Commission reviewed and adopted this final draft.

The accent in the revised law is on simplification and clarity of language. The sections are rearranged so that they are in a more logical sequence. Many sections have been

consolidated and obsolete provisions deleted. Standard definitions of terms used commonly throughout the chapter have been adopted. The 4% debt limitation for municipalities, and the 7% debt limitation for counties have been retained, although the Commission recognizes that some change will ultimately be required when the law affecting rates of assessment is finally enacted. The term "bond ordinance" is now used to describe the proceeding for the authorization of a local unit's obligations. This will effect a change of terminology only in the case of counties which presently act by bond resolution. This new label is more legally accurate, for the procedures followed in authorizing bonds are substantially identical with procedures followed in passing an ordinance, and it will not result in any substantive or procedural change.

40A:2-3 (R.S. 40:1-7, 40:1-9) Power to borrow money and issue obligations. This section changes existing law; it permits the financing for an improvement or property for which an emergency appropriation has been made if the obligations are authorized prior to the provision for that appropriation in the local unit's budget. The existing law provides for financing an improvement or property for which an emergency appropriation has been made only in the same fiscal year.

40A:2-7 (R.S. 40:1-16) Exceptions to debt limitation.

This section contains a major substantive change. Subsection d of R.S. 40:1-16 has been eliminated. It is overly complicated, and those local units which have used it in the past have done so with hesitation and uncertainty. A new section has been developed (40A:2-7 g) which provides local units with an absolute right to exceed the debt limitations when they comply with the mechanics of a simple formula. The purpose of this section is to permit a local unit to have the absolute right to exceed its debt limitation only in relation to the extent that it retires its outstanding obligations.

40A:2-8 (R.S. 40:1-8, 40:1-42, New) Short term financing.

Paragraph a of this section authorizes bond anticipation notes. It changes existing law in eliminating the 1/5 of 1% limitation on the authorization of bond anticipation notes. The purpose of the elimination of this limitation is to provide a municipality with more flexibility. Paragraph b of this section is an entirely new provision not contained in existing law. This permits the issuance of a 5-year capital note authorized and sold in the same manner as a bond anticipation note. The note must be refunded in an amount of 20% per year out of funds other than the proceeds of obligations. Its

purpose is to afford more flexibility to smaller local units and to save them the high cost of authorizing and issuing bonds in capital expenditures of \$20,000 or less.

40A:2-11 (R.S. 40:1-12) Down payment. This section continues the down payment requirement. The purpose of the down payment is to insure capital planning and require a limited pay-as-you-go plan for the funding of capital improvements. Subsection b 2 changes existing law in that the moneys referred to must be moneys then actually held by the local unit and previously contributed for such purpose other than by the local unit. The reference to Federal or State agency aid present in existing law is eliminated. Experience has shown that Federal or State agency aid cannot be relied upon unless the funds from such aid have actually been contributed to the local unit and held by it. In many cases, aid promised and expected has not been forthcoming. It is for this reason that the recommended section requires that the moneys be actually held by the local unit in order to qualify under the down payment provision. This new requirement is an added protection to the public and is in line with the underlying rationale of this section requiring limited pay-as-you-go.

40A:2-13 (R.S. 40:1-11) Multi-purpose bond ordinances. The language of the existing law has been substantially reduced while preserving its substance. The requirement of having the director check the correctness of the computation

of the combined periods of usefulness in combined issues has been deleted upon the recommendation of the director and his staff. It is an unnecessary act and places too great a burden upon the director and his staff.

40A:2-15 (R.S. 40:1-90) Power to make special covenants in bond. By the use of the new definition of municipal public utility, this section now includes within its scope parking systems and electrical systems, which are not included in existing law and which should logically be treated alike. It is thought that this broadened section will enhance the marketability of New Jersey obligations when these obligations are authorized to finance a municipal public utility purpose.

40A:2-17 (R.S. 40:1-9, 40:1-21, 40:1-18, 40:1-19) Procedures for adoption of bond ordinance. This section includes 4 sections of the existing law. They have been collected together and edited without substantive change in line with the basic philosophy of the revision to simplify language and to consolidate sections where possible in the interest of clarity.

40A:2-19 (R.S. 40:1-20) Publications. The language of this section has been broadened from that in existing law to include all public advertisement required under this chapter.

It thereby eliminates the need for repeating the same language within other sections. The language of this section is substantially identical with the general publication statute of New Jersey.

40A:2-20 (R.S. 40:1-55) Expenses included in cost.

There is added to the items of cost, accounting costs. While all local units have usually included accounting costs as an item of cost, there has always been an open question because existing law does not specifically list accounting costs as a permissible cost. This section also changes existing law in that there is no longer the requirement that these items of cost be stated separately in the bond ordinance. This change is recommended because experience has proven that it is very difficult to predict at the time of the passage of the bond ordinance precisely how much will be required for these various costs. The gross sum of the entire project, including these costs, can usually be predicted with some degree of accuracy. Since the requirement of stating the gross sum is retained in the recommended section, the basic protection for the public remains.

40A:2-22 (R.S. 40:1-34) Periods of usefulness. This section has been completely rewritten. An entirely new approach has been taken from the one in existing law. The specific purposes are collected under generic headings.

For example, all improvements are collected together as are all purposes relating to buildings and all purposes relating to roads. As to buildings, three new class definitions of buildings have been developed. These new classifications are more concise and do not change existing law substantively. As to streets and roads, the New Jersey State Highway Department has been consulted. The Commission felt that the definitions in the existing law were overly complex and probably had little relation to present-day construction requirements. The State Highway Department concurred and recommended new periods of usefulness of roads for three classes, Class A road, 20 years, Class B road, 10 years, and Class C road, 5 years. Each of these new classes has a concise definition in line with present-day construction requirements. The Commission has accepted the State Highway Department's recommendations and has incorporated these recommendations into this revision.

40A:2-24 (R.S. 40:1-29) Form of obligations, 40A:2-25 (R.S. 40:1-54, 40:1-30) Execution and delivery of obligations. These sections have been substantially simplified. Section 40A:2-25 requires execution by the manual signature of the clerk and allows the rest of the signatures to be facsimiles. This changes existing law; it is made in response to requests made by local government officials who have been heretofore

required to sign, manually, each bond or note.

40A:2-26 (R.S. 40:1-25, 40:1-25.1) Maturities of bonds

This section changes existing law in that no annual installment shall exceed by more than 100% the amount of the smallest prior installment. Existing law limits this to 50%.

40A:2-27 (R.S. 40:1-31, 40:1-43, 40:1-53) Sale of bonds.

This section changes existing law by permitting the sale of bonds privately in amounts up to \$20,000. The present limitation is \$10,000. The purpose of this change is to provide local units with more flexibility and to bring the limitation in line with modern finance requirements.

40A:2-29 (R.S. 40:1-27) Minimum price for obligations.

This section changes existing law by permitting refunding bonds to be excepted from the price limitations of this section.

40A:2-32 (R.S. 40:1-44, 40:1-45, 40:1-49, 40:1-50, 40:1-46, a, b) Conditions of sale of bonds. This section changes existing law substantively. It permits a proper net interest cost sale. This will assist in the sale of bonds and offers an additional method of offering bonds at public sale, a method used commonly in most all other states.

40A:2-35 (R.S. 40:1-57, 1 to 4) Conversion, reconversion and reissuance of bonds, and 40A:2-36 (R.S. 40:1-57, 5 and 6) Lost, destroyed or defaced obligations. These sections have been substantially simplified.

40A:2-37 (R.S. 40:1-59) Contracts to be financed by obligations. This section changes existing law. The governing body may not make any contract until the bond ordinance becomes effective. The 20-day waiting period required in existing law is eliminated. The recommended section satisfactorily protects the public from imposition. It affords to the contracting party an exact date upon which he may contract with the governing body.

40A:2-38 (R.S. 40:1-58) Prohibited agreements. This section continues the general prohibition in existing law against the so-called "service contract". It clarifies the question as to whether or not a municipality may lawfully hire a financial advisor by specifically permitting this hiring. It prohibits the said financial advisor from bidding or purchasing any obligations at public or private sale on which the advisor worked. This new prohibition prevents the possibility of a charge that a bidder has inside information on a particular obligation to be offered for sale. It is the Commission's judgment that this provision may enhance the marketability of New Jersey obligations.

40A:2-39 (R.S. 40:1-85) Application of proceeds. This section changes existing law. The excess proceeds from the sale of obligations should be first used to pay the obligations issued and outstanding. If, in the opinion of the governing body, it is in the best interest of the local unit, these

proceeds may be used to finance the cost of any other bondable purpose regardless of the period of usefulness. Under existing law, a local unit is limited in the application of such proceeds to a purpose which has the same or longer period of usefulness of the obligation from which the proceeds were accumulated. The purpose of the recommended change is to place the responsibility upon the governing body of the local unit to determine the use of such proceeds; first, to retire the obligations outstanding from which these proceeds were accumulated, or second, if they think it is in the best interest of the local unit to use the proceeds for any capital purpose regardless of its bondable life. The limitation in existing law does not afford the public any greater protection than the recommended section and places the local unit under greater and unnecessary restraints than the recommended section.

40A:2-41 (R.S. 40:1-75, 40:1-80) Contents of annual debt statement. This section accomplishes a substantial editorial change without a substantive change. The inner statutory references contained in the existing law are eliminated, thereby permitting one to read the section and understand it without having to refer to cross references. This editorial

change is in line with one of the general aims of the Commission--to eliminate inner statutory references in sections.

40A:2-45 (R.S. 40:1-78, 40:1-79) Self-liquidating purposes, 40A:2-46 (R.S. 40:1-77.1, 40:1-79) Self-liquidating purposes during construction, 40A:2-47 (R.S. 40:1-79) Self-liquidating improvements and extensions, and 40A:2-48 (R.S. 40:1-79) Self-liquidating utility deficits. These sections apply a new broad definition of municipal public utility. This definition includes water, sewer, electric power, gas works, public parking systems or utilities or enterprises and urban renewal development projects. Because of this broader definition, the sections on redevelopment housing projects have been deleted. The substance of these sections is now included in the new sections.

40A:2-49 (R.S. 40:1-36, 40:1-84, 40:1-87) Conclusiveness of authorization of obligations, and 40A:2-50 (R.S. 40:1-88) Conclusiveness of validity of obligations. These are the new estoppel sections. The Commission determined that it would be wise to collect all of the estoppel sections throughout the act and place them together at the end of the normal bonding procedure sections and immediately prior to the refunding bond sections.

40A:2-51 through 40A:2-61, inclusive (R.S. 40:1-62, 40:1-63, 40:1-64, 40:1-70, 40:1-76, 40:1-62.1, 40:1-66, 40:1-67, 40:1-69, 40:1-67, 40:1-68, 40:1-65, 40:1-72, 40:1-73, 40:1-86). These sections are the refunding bond sections. They have been edited, and an attempt has been made to clarify the language without substantive change.

The revision of the local bond law has succeeded in consolidating the substance contained in 101 sections in existing law into 62 new simplified sections. The statute, as redrafted, retains the major elements of restraint on county and municipal financing, which are found in the existing law.

The Commission hereby desires to express its appreciation for the services rendered by the Director of Local Government, by the members of the advisory committee, and those who sat with them during its studies, as well as the members of its own staff. The proposed local bond law, annexed hereto, has met with the approval of the Governor's advisory committee, as well as the approval of Director Skillman and his staff. The Commission, therefore, recommends the enactment of this legislation in the form annexed to this report.

CHAPTER 4. LOCAL BUDGET LAW

New Jersey's first local budget law was enacted in 1917 (P.L. 1917, chapter 192) largely as a result of the findings of a Commission for the Survey of Municipal Financing created in 1916. While the original statute required all budgets to be filed with what was then the Department of Municipal Accounts, that department had little control over budget preparation except with regard to the requirement that mandatory items and deferred charges be included.

The original budget law was in most respects adequate except that it did not control the use of surplus available to support the budget and did not restrict the over-estimation of revenues. This resulted in unsound budgets and was accentuated by the fact that real estate taxes were not being paid promptly due to the depression which began after the market collapse of 1929. Many municipalities defaulted in their payments of bonds and interest, and there was widespread failure to pay State and county taxes.

As a temporary expedient, Chapter 60 of the Laws of 1934 was enacted. This provided for a cash basis budget and was used by some 50 municipalities, mainly the larger units.

Banking institutions agreed to loan money to the municipalities that took advantage of Chapter 60, and some of the bad financial situations were corrected. The advantage of this statute, while it was not enthusiastically received by local units, was such that it served as the basis for a revision of the original budget law.

Work on a complete revision was started in the early 30's, largely through the efforts of the late Arthur N. Pierson, then Senator from Union County. Bills were introduced at several sessions of the Legislature but failed of passage. The 1936 Legislature finally approved the new law, which became Chapter 211 of the Laws of 1936. This was a true cash basis law. However, realizing the fact that the new statute had some very definite restrictions, municipalities, under certain conditions, could postpone the preparation of a full cash basis budget for a limited period of time. The results were as follows:

<u>Year</u>	<u>Cash Basis Budget</u>	<u>Modified Cash Basis Budget</u>	<u>Non-Cash Basis Budget</u>
1940	499	13	75
1941	539	10	38
1942	565	9	13
1943	578	3	7
1944	579	-	9
1945	579	-	9
1946	582	-	4
1947	584	-	2
1948-56	588	-	-

At the present time, every municipality and county in New Jersey operates on a full cash basis. The only local units permitted to prepare other than a cash basis budget today are those under the jurisdiction of the Local Government Board functioning as a Municipal Finance Commission.

The work on this draft commenced approximately eight months ago. The Commission Counsel, Clive S. Cummis, with the aid of Charles DeF. Besore', Chief Counsel and Executive Director, Law Revision and Legislative Services, and George C. Skillman, Director, Division of Local Government in the Department of the Treasury, prepared the original draft. That draft was distributed publicly throughout the State to interested persons and groups. Recommendations and suggestions were solicited.

Immediately thereafter, Governor Robert B. Meyner appointed a committee of experts to aid the Commission in its job of revising the budget law. This committee consisted of W. Carlton Tillinghast, Secretary, New Jersey Taxpayers League, George C. Skillman, Director, Division of Local Government, James J. Graveny, Mayor, Keansburg, Edmund D. Bowman, Municipal Auditor, Camden, Kenneth V. Myers, County Treasurer and Township Treasurer, Hunterdon County and Franklin Township respectively, John O. Sitzler, Jr., Attorney, Palmyra, William Gurtman, City Attorney, Passaic, Joseph S. Holland,

Freeholder, Mercer County, Wayne Mitchell, Director of Operations of Ridgewood, and Charles Valvano, City Treasurer, Linden.

The Governor's committee reviewed the draft, section by section. It met on a number of occasions for the purpose of discussing the views of the individual members, and at the end of these meetings, it submitted a number of recommendations to the Commission.

The recommendations of the Governor's committee and other recommendations received by the Commission were reviewed by the Commission staff, and those which were determined to be satisfactory were incorporated in a second draft of the revised law. This draft was prepared by the Commission staff, in cooperation with Director Skillman and the staff of the Division of Local Government.

The second draft was then presented to the Budget Bureau staff of the Division of Local Government and a number of auditors of local units throughout the State. They tested its workability and reported that local budgets could be successfully prepared and administered under its provisions. Further, the Division could certify any budget prepared under the revised law without any confusion or change in procedure.

Director Skillman and the Commission staff again reviewed the budget draft, there being some changes necessitated by the field review. These changes are incorporated in the final

legislative recommendations annexed hereto.

The proposed draft of the revised local budget law of New Jersey continues the cash basis requirement for New Jersey budget making on the county and municipal level. The statutory material is now collected in 87 sections. It is set out in a more logical and orderly fashion. Certain procedures which have been standard practice of the Division of Local Government are now spelled out as law. Amendatory sections are brought into proper sequence and clarification has been sought wherever possible.

Language has been simplified and sections shortened wherever possible. The Commission recognizes that the substance of the Local Budget Law is highly technical, and this technical subject matter must be retained in order to continue the assurance of fiscal responsibility, so far as any law makes this possible. It is, none-the-less, desirable that legislation be written in simple, understandable language comprehensive to the non-lawyer citizen and local government official.

Five new sections have been added to the revised law; eight sections have been taken from other parts of Title 40, consolidated and made a part of this chapter.

This new law carries over use of the terminology of "local unit", "director" and "governing body" now defined in the new general definition section of Title 40A.

Since all local units are operating on a full cash basis, the "transition language" in existing law, changing the budget to a full cash basis system, has been eliminated.

40A:4-2 (R.S. 40:2-2) Definitions. This section has been added to the law and contains new standard definitions for use in the budget law. "Cash basis budget" has been defined, as well as "debt service". The fiscal year of January 1 to December 31 has been retained after careful consideration of suggestions that it be changed to July 1 to June 30.

40A:4-3 (R.S. 40:2-5, 40:2-22) Annual budget. This section now sets out, for the first time, the express requirement that each local unit prepare its budget on a full cash basis.

40A:4-4 (New) Procedures for adoption of budget. This section includes a list of five procedures to be followed in all budget making, including capital budgets. Action in budget making is now to be taken by resolution of the governing body.

40A:4-6 (R.S. 40:2-7) Public advertisement. This is a new section simplifying the public advertisement requirements and standardizing it with other law.

40A:4-7 (R.S. 40:2-7) Time of public hearing. Language of this section requires that all taxpayers and other interested persons be given an opportunity to be present at any public hearing on the budget. The specific language is new.

No substantive change over present law was intended. The section carries over the basic intent that a public hearing is to afford all responsible and interested persons an opportunity to present objections. The method of conducting the hearing continues to remain within the discretion of the members of the governing body.

40A:4-12 (R.S. 40:2-19) Amount to be raised by taxation for local purposes. The language of this section is entirely new. It is recommended on the basis of a draft prepared by the budget staff of the Director of the Division of Local Government. It attempts to clarify and simplify the substance of existing law.

40A:4-19 (R.S. 40:2-12) Temporary appropriations. The language relating to "relief of the poor" has been deleted; "public assistance" has been substituted. This conforms to modern usage. There has been the addition of the capital improvement fund as part of the computation in arriving at the maximum of temporary appropriations allowable.

40A:4-20 (R.S. 40:2-12.1, 40:2-12.2) Emergency temporary appropriations. These appropriations are now called "emergency temporary appropriations". This new description describes this appropriation more adequately than the way it is denominated in existing law. The requirement of public advertising and hearing for amendments of emergency temporary appropriations in the existing law has been deleted. This supposed protection

is considered to be unnecessary and hinders local units' attempts to act swiftly to meet new emergencies. In the event that the Director finds this section abused, he has general power to make rules and regulations to prevent such abuse.

40A:4-21 (New) Separate sections required. This is a new section recommended by the staff of the Director of the Division of Local Government. It conforms to existing practice of the local government board.

40A:4-24 (R.S. 40:2-16) Surplus. The language of this section has been simplified to meet the demands of various citizen groups who complained that the definition has not been understandable to the layman. The definition now satisfies these complaints.

40A:4-25 (R.S. 40:2-17) Miscellaneous revenues.

40A:4-26 (R.S. 40:2-17) Miscellaneous revenues limited to cash receipts; exemption.

40A:4-27 (R.S. 40:2-17) Miscellaneous revenues; sale of property.

40A:4-28 (R.S. 40:2-17.1) Miscellaneous revenues; sinking fund surplus.

40A:4-29 (R.S. 40:2-25) Receipts from delinquent taxes.

40A:4-30 (New) Amount to be raised by taxes to support municipal budget.

- 40A:4-31 (R.S. 40:2-21) Arrangement of appropriations.
- 40A:4-32 (R.S. 40:2-21) Separate items of appropriations.
- 40A:4-33 (R.S. 40:2-18) Operation of utility or enterprise.
- 40A:4-34 (R.S. 40:2-18) Appropriations for utility or enterprise.
- 40A:4-35 (R.S. 40:2-24) Utility operations; surplus; deficit.
- 40A:4-36 (R.S. 40:2-18) Dedicated revenues; general definition.
- 40A:4-37 (R.S. 40:2-18) Dedicated assessment budget.
- 40A:4-38 (New) Appropriation in dedicated assessment budget.
- 40A:4-39 (R.S. 40:2-18.1, 40:2-18.2, 40:2-18.3) Dedication by rider. The language of these sections has been shortened and simplified without change in the substance of the law.
- 40A:4-40 (R.S. 40:2-26) Reserve for uncollected taxes; appropriation. The introductory paragraph of this section has been changed to meet present standard requirements. The deletion of the language "by resolution of the governing body" conforms to modern practice.
- 40A:4-41 (New) Anticipated cash receipts for purpose of computing reserve for uncollected taxes. The language of this section has been greatly simplified without changing its substance.

40A:4-43 (R.S. 40:2-61) Capital budgets; definition.

40A:4-44 (R.S. 40:2-61) Form, arrangement and detail of capital budgets.

40A:4-46 (R.S. 40:2-31) Emergency appropriations.

These sections, all relating to emergency appropriations, have been rewritten and re-edited without changing their substance.

40A:4-45 (R.S. 40:2-61) Separate capital budgets.

This section has been substantially re-edited. It now requires a statement of capital undertakings projected over a six-year period rather than the three-year period in the present law.

40A:4-74 (New) Utility anticipation notes. This is an entirely new section. It permits any local unit which operated a public utility to borrow and issue negotiable notes to provide funds necessary to operate the utility. The purpose of this new utility anticipation note is to provide the municipality with additional short-term borrowing power in addition to the borrowing power provided for in tax anticipation notes. It has been found that many local units have been without sufficient funds to operate their municipally owned utilities during the course of the year. This will permit them to have funds on hand to meet operating expenses but still require them to remain within their cash

basis limitations by requiring the maturity of these notes not later than March 31 after the close of the fiscal year in which the notes were originally issued.

40A:4-83 (R.S. 40:2-53) Regulations by the local government board and director. This section changes existing law substantively. It broadens the power of the local government board in permitting it to promulgate reasonable rules and regulations which shall be necessary to carry the provisions of any section of the chapter.

The Commission expresses its appreciation to the following: the members of the Governor's committee for their efforts in working on this law; to Charles DeF. Besore', who has aided the Commission's staff throughout the preparation of the draft of the Local Budget Law; to Director George C. Skillman and the members of the staff in the Division of Local Government, who have taken time from their own crowded work schedules to meet with the Commission's staff to review each of the drafts and to test the workability of these drafts and make many of the recommendations which have ultimately been incorporated in the proposed law annexed hereto.

The County and Municipal Law Revision Commission considers that the draft annexed hereto has met the test of broad public critical examination from both local government officials and

from persons expert in the field of preparation and administration of budgets for local units in the State of New Jersey. It is pleased to report that the Director of the Division of Local Government and his staff have advised it that the proposed legislation will accomplish an advancement in budget-making in this State, and they further find this proposed legislation will insure, so far as it is possible, the continuation of fiscal responsibility under the cash basis philosophy.

The County and Municipal Law Revision Commission, therefore, herewith submits the annexed legislation to the members of the General Assembly and the Senate of the State of New Jersey and respectfully recommends its enactment into law.

CHAPTER 5. FISCAL AFFAIRS LAW

This chapter is an entirely new chapter. It collects all of the sections throughout Title 40 which relate to fiscal affairs and which properly belong under one chapter heading.

40A:5-3 (R.S. 40:5-16) Fiscal year. The fiscal year continues to be the calendar year January 1 to December 31.

40A:5-4 (R.S. 40:4-1, 40:4-13, 40:4-14) Annual audit required. This section now requires every local unit to have an annual audit of its books, regardless of amount of assessed valuation. It changes existing law which requires audits of municipalities having assessed valuations of less than \$3,000,000

not more than once in two years.

40A:5-5 (R.S. 40:4-1) Scope of audit.

40A:5-6 (R.S. 40:4-8) Report of audit.

40A:5-7 (R.S. 40:4-2; 40:4-3) Publication of report
and recommendations.

40A:5-8 (R.S. 40:4-4) Audit by director.

40A:5-9 (R.S. 40:4-5) Audit by registered municipal
accountant.

40A:5-10 (R.S. 40:4-9) Revocation or cancellation of
license.

40A:5-11 (R.S. 40:4-16) Advertising for bids unnecessary.

40A:5-12 (R.S. 40:5-13) Annual financial statement of
local unit.

40A:5-13 (R.S. 40:5-14, 40:5-15) Annual financial state-
ments by boards, committees and commissions of a local unit.

These sections carry over existing law without any substantive change. These sections have been edited substantially. The language has been simplified and made more meaningful. A considerable amount of excess verbiage has been deleted.

40A:5-14 (R.S. 40:5-3, 40:5-4, 40:5-5) Legal depositories
for public moneys.

40A:5-15 (R.S. 40:48-10, 40:125-13) Deposit of funds paid
to the local unit.

40A:5-16 (R.S. 40:5-1) Payment of moneys of local unit.

40A:5-17 (R.S. 40:48-13, 40:48-14, 40:48-15, 40:48-16, 40:48-17) Approval and payment of claims.

40A:5-18 (R.S. 40:23-10, 40:48-12) Public recording of approved claims.

40A:5-19 (R.S. 40:21-14, 40:21-14.1, 40:46-31) Payment of salaries and wages.

40A:5-20 (R.S. 40:46-2) Officers to deliver funds and records when term expires.

40A:5-21 (R.S. 40:23-8, 40:48-9, 40:5-2, 40:5-2.11, 40:11-15, 40:11-16, 40:5-2.9, 40:5-2.10) Power to appropriate money for special purposes.

40A:5-22 (R.S. 40:23-5, 40:23-6, 40:23-8.9) Special county purposes.

40A:5-23 (R.S. 40:48-2.16, 40:48-2.17, 40:48-5.3, 40:48-5.4, 40:46-37, 40:48-22, 40:48-23) Special municipal appropriations.

40A:5-24 (R.S. 40:5-7, 40:5-8, 40:5-9, 40:5-10, 40:5-11, 40:5-12) Petty cash fund of local unit. These sections govern the collection, deposit and expenditure of funds by a local unit. They have not been changed substantively. A substantial amount of editorial work has been done in making the language more meaningful and combining sections spread throughout Title 40.

40A:5-25 (R.S. 40:6-1, 40:6-2) Investigation of expenditures of local unit.

40A:5-26 (R.S. 40:6-1, 40:6-2) Costs, taxation and payment bond.

40A:5-27 (R.S. 40:6-1, 40:6-2, 40:6-6) Filing and publication of report of investigation.

40A:5-28 (R.S. 40:6-5) Attorney of local unit may appear on its behalf.

40A:5-29 (R.S. 40:6-3) Subpoenas and testimony of witnesses.

40A:5-30 (R.S. 40:6-4) Witness fees and mileage taxed as costs.

40A:5-31 (R.S. 40:6-2) Duty of officers and employees of local unit. These sections relate to the investigation of expenditures of a local unit. The substance of these sections has not been changed but here too there has been a re-editing of the language with an effort to delete excess verbiage and simplify meaning.

40A:5-37 (R.S. 40:21-9, 40:21-10, 40:46-20) Bonds of officials and employees.

40A:5-38 (R.S. 40:21-11, 40:46-21) Recording of bonds.

40A:5-39 (2A:8-14.3) Protection to be afforded by bond. These sections concern the requirement of bonds for local unit officials charged with the handling of funds of the local unit. There has not been any change made in the substance of the existing law.

40A:5-40 (R.S. 40:21-12, 40:46-22) Condition of bond broken.

40A:5-41 (2A:8-14.4) Rules and regulations.

40A:5-42 (2A:8-14.5) Fixing of bond in excess of minimum amount.

40A:5-43 (2A:8-14.1) Bond of magistrate or clerk;
fixing of minimum amount.

40A:5-44 (2A:8-14.2) Classification system for purpose
of determining amount of bond; minimum amount. These sections
concern the bonding of municipal magistrates and employees of
the magistrates' courts. These sections are contained under
existing law under Title 2A. They have now been carried over
to Title 40A and are placed with the bonding requirements of
all officials of local units. This is in compliance with the
requirements of the Director of the Division of Local Govern-
ment and the concurrence of the Administrative Director of
the Courts.

Respectfully submitted,

, Chairman

Albert McCay

Richard R. Stout

John A. Lynch

William V. Musto

Pierce H. Deamer, Jr.

Raymond E. Bowkley

Norman Heine

Fred G. Stickel, III

David C. Thompson

Clive S. Cummis, Counsel

Raymond Del Tufo, Jr.,
Assistant Counsel