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J O I N T P U B L I C H E A R I N G

before

SENATE COUNTY AND MUNICIPAL GOVERNMENT COMMITTEE
and
SENATE TRANSPORTATION AND COMMUNICATIONS COMMITTEE

SENATE BILLS 2626, 2627, and 2628

"TRANSPLAN"

(Bills proposed by the Department of Transportation)

September 2, 1987
Old Bridge Municipal Complex
Old Bridge, New Jersey

MEMBERS OF SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE PRESENT:

Senator Richard Van Wagner, Chairman
Senator Thomas F. Cowan, Vice Chairman

MEMBERS OF SENATE TRANSPORTATION
AND COMMUNICATIONS COMMITTEE PRESENT:

Senator Walter Rand, Chairman
Senator Francis J. McManimon
Senator S. Thomas Gagliano

ALSO PRESENT:

Senator Ronald L. Rice, District 28
Assemblyman Walter M.D. Kern, District 40
Assemblywoman Joann H. Smith, District 13

John A. White
Office of Legislative Services
Acting Aide, Senate County and Municipal
Government Committee

Peter R. Manoogian
Office of Legislative Services
Aide, Senate Transportation and
Communications Committee

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Hearing Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625





New Jersey State Legislature

CHARD VAN WAGNER
Chairman
THOMAS F. COWAN
Vice-Chairman
HANK X. GRAVES, JR.
JOSEPH BUBBA
RONARD T. CONNORS, JR.

**SENATE COUNTY
AND MUNICIPAL GOVERNMENT COMMITTEE**
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625
TELEPHONE: (609) 292-1596

August 19, 1987

NOTICE OF JOINT PUBLIC HEARING

The Senate County and Municipal Government Committee and the Senate Transportation and Communications Committee will hold a joint public hearing on Wednesday, September 2, 1987 at 11:30 a.m. in the Auditorium of the Recreation Building in the Old Bridge Municipal Complex on Route 516 at the corner of Cottrell Road.*

The purpose of this hearing is to discuss S-2626, S-2627 and S-2628, the "Transplan" bills proposed by the Department of Transportation. Senate Bill 2626 provides a stronger regional planning role for counties. Designated the "State Highway Access Management Act," Senate Bill 2627 provides a comprehensive statutory and regulatory framework for managing access to State highways. Senate Bill 2628, or the "Transportation Development District Act," is designed to offer a partial solution to the transportation problems of growth corridors.

This is the second joint hearing of these two Committees on the "Transplan" bills.

Anyone wishing to testify should contact Hannah Shostack, Aide to the Senate County and Municipal Government Committee, at (609) 292-1596.

*From Exit 9 off the New Jersey Turnpike, follow Route 18 South or East (signs vary depending on which part of Route 18 you are on) for 5 or 6 miles past Brunswick Square Mall to Route 516, which is the Matawan exit; follow the exit ramp back across Route 18, proceed along 516 for approximately 4 or 5 miles, Municipal Complex will be on left hand side after Route 9; Municipal Complex is opposite Madison Central High School; Recreation Building is to the left, in front of the Municipal Building.





New Jersey State Legislature

**SENATE TRANSPORTATION
AND COMMUNICATIONS COMMITTEE**

STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625
TELEPHONE: (609) 984-7381

WALTER RAND
Chairman
THOMAS F. COWAN
Vice-Chairman
FRANCIS J. McMANIMON
S. THOMAS GAGLIANO
JAMES R. HURLEY

August 20, 1987

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SENATE, No. 2626
STATE OF NEW JERSEY

INTRODUCED OCTOBER 6, 1986

By Senators COWAN, McMANIMON, HURLEY, GAGILANO
and RAND

Referred to Committee on Transportation and Communications

AN ACT concerning county and municipal planning, making an
appropriation, and revising parts of the statutory law.

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

1 1. (New section) The Legislature finds and declares that:

2 a. The public safety, health and general welfare require that
3 county governments act to encourage sound regional development
4 patterns, to promote regional prosperity and economic develop-
5 ment, and to protect regional transportation and environmental
6 resources;

7 b. Significant economies, efficiencies and savings in the develop-
8 ment process would be realized by private sector enterprises and
9 by public sector development agencies if the several levels of gov-
10 ernment would cooperate in the preparation of and adherence to
11 sound and integrated plans;

12 c. It is in the public interest to encourage development, rede-
13 velopment and economic growth in locations that are well situated
14 with respect to present or anticipated public services and facili-
15 ties, giving appropriate priority to the redevelopment, repair,
16 rehabilitation or replacement of existing facilities, and to dis-
17 courage development where it may impair or destroy natural
18 resources or environmental qualities that are vital to the health
19 and well-being of the present and future citizens of this State;

20 d. A cooperative planning process that involves the full par-
21 ticipation of State, county, and local governments as well as other

EXPLANATION—Matter enclosed in bold-faced brackets [italics] in the above bill
is not enacted and is intended to be omitted in the law.
Matter printed in italics thus is new matter.

22 public and private sector interests will enhance prudent and
23 rational development, redevelopment and conservation policies and
24 the formulation of sound and consistent regional plans and plan-
25 ning criteria. In furtherance of this cooperative planning process,
26 it is the intent of the Legislature that the laws with respect to
27 county planning, found generally in Chapter 27 of Title 40 of the
28 Revised Statutes, and the laws with respect to municipal planning,
29 found generally in P. L. 1975, c. 291 (C. 40:55D-1 et seq.), should
30 to the extent not inconsistent, be read together;

31 e. An increasing concentration of the poor and minorities in
32 older urban areas jeopardizes the future well-being of this State,
33 and a sound and comprehensive planning process will facilitate
34 the provision of equal social and economic opportunity so that all
35 of New Jersey's citizens can benefit from growth, development
36 and redevelopment;

37 f. Regional plans for development and redevelopment are
38 essential for guiding public and private investment and develop-
39 ment decisions of regional significance, and to encourage com-
40 patible planning objectives at the municipal level of government;

41 g. New Jersey's counties are, in large measure, economic or
42 geographic regions, and are well suited to conducting regional
43 planning activities;

44 h. Implementation of the "State Planning Act," P. L. 1985, c.
45 398 (C. 52:18A-196 et seq.) requires that strong and effective
46 planning agencies exist at the county level to negotiate the cross-
47 acceptance of municipal, county and state planning objectives;

48 i. County regional plans which describe in general terms how a
49 county should develop over time, and in specific terms how re-
50 sources of regional significance should be managed, can provide
51 a framework which will improve and facilitate municipal planning
52 decisions made within the county;

53 j. Local government will function best if the plans and policies
54 of State and county government are clearly stated, and if these
55 policies and plans include objective standards and procedures to
56 effect their implementation;

57 k. County planning boards are well suited for reviewing develop-
58 ments which affect State as well as county resources, and it is
59 desirable to promote coordination of development reviews by desig-
60 nating counties as review agencies for developments affecting
61 State resources;

62 l. To facilitate efficient processing of development applications,
63 it is desirable that issues of county, regional or State significance
64 be resolved prior to initiation of municipal development reviews.

65 It is therefore desirable that county planning boards be required
 66 to certify that all issues of regional significance have been ade-
 67 quately resolved prior to initiation of the formal municipal de-
 68 velopment review process:

69 m. Regional transportation systems, including State and county
 70 highways and public transportation services, reflect major public
 71 investments which should not be allowed to be degraded as a result
 72 of poorly planned development activities or inadequate considera-
 73 tion of future needs resulting from regional growth and develop-
 74 ment:

75 n. Orderly development of land within the State requires that
 76 as land is developed for more intensive uses, land owners should
 77 provide incidental dedications of land consistent with a county
 78 master plan and official map. It is not necessary that a specific
 79 development create the need for a particular dedication of land, if
 80 the planning process being employed by the county can demon-
 81 strate that the overall process of development will require such
 82 dedication:

83 o. New Jersey's counties have been legislatively charged with
 84 responsibility for developing functional plans for solid waste
 85 disposal, wastewater management, agricultural preservation,
 86 transportation improvement plans and other programs of regional
 87 significance. It is necessary and appropriate to authorize counties
 88 to conduct these planning responsibilities in a comprehensive
 89 manner, and to provide county governments with the authority to
 90 guide land development within the county in a manner which will
 91 promote attainment of legislated regional policies and objectives.

1 2. R. S. 40:27-1 is amended to read as follows:

2 40:27-1. The [board of chosen freeholders may] *governing body*
 3 *of each county shall* create a county planning board of not less
 4 than five nor more than nine members. The members of such plan-
 5 ning board shall be [the director of the board of chosen freehold-
 6 ers, one member of the board of chosen freeholders, to be]
 7 appointed by the [director,] *governing body, shall include two*
 8 *members appointed by the governing body from among its num-*
 9 *ber, and shall include* the county engineer, if the board exceed six
 10 in number, and other citizens who may not hold any other county
 11 office [and who shall be appointed by such director of the board
 12 of chosen freeholders with the approval of that body]. One of the
 13 [remaining] members shall be appointed for two years, two shall
 14 be appointed for three years, and all additional remaining mem-
 15 bers shall be appointed for four years, and thereafter their suc-
 16 cessors shall be appointed for the term of three years from and

17 after the expiration of the terms of their predecessors in office.
 18 All members of the county planning board shall serve as such
 19 without compensation, but may be paid expenses incurred in the
 20 performance of duties. *The provisions of this section shall not*
 21 *affect adversely the powers accorded to counties having adopted*
 22 *the "Optional County Charter Law," P. L. 1972, c. 154 (C. 40:41A-1*
 23 *et seq) to reorganize functions through the administrative code*
 24 *of the county.*

1 3. R. S. 40:27-2 is amended to read as follows:

2 40:27-2. a. The county planning board shall make and adopt a
 3 master plan for the physical development of the county. *In pre-*
 4 *paring the county master plan, or any revision to the plan, the*
 5 *board shall seek the full cooperation and participation of each*
 6 *municipality within the county, and it shall take into consideration*
 7 *the various objectives and proposals contained in the various mu-*
 8 *nicipal master plans. The master plan of a county, with the ac-*
 9 *companying maps, plats, charts, and descriptive and explanatory*
 10 *matter, shall show the county planning board's recommendations*
 11 *for the development of the territory covered by the plan [and*
 12 *may include, among other things, the general location, character,*
 13 *and extent of streets or roads, viaducts, bridges, waterway and*
 14 *waterfront developments, parkways, playgrounds, forests, reser-*
 15 *vations, parks, airports, and other public ways, grounds, places*
 16 *and spaces; the general location and extent of forests, agricultural*
 17 *areas, and open-development areas for purposes of conservation,*
 18 *food and water supply, sanitary and drainage facilities, or the*
 19 *protection of urban development, and such other features as may*
 20 *be important to the development of the county].*

21 The county planning board shall encourage the [co-operation]
 22 cooperation of the local municipalities within the county in any
 23 matters whatsoever which may concern the integrity of the county
 24 master plan and [to] advise the [board of chosen freeholders]
 25 county governing body with respect to the formulation of develop-
 26 ment programs and budgets for capital expenditures.

27 b. *The master plan shall contain the following elements:*

28 (1) *A general land use element providing a guide as to the*
 29 *future location and pattern of those land uses which will have a*
 30 *direct or indirect effect upon the ability of governmental agencies*
 31 *to manage and protect natural and cultural resources of regional*
 32 *significance, or which will have a direct or indirect effect upon the*
 33 *need for improvements of regional significance, and the ability to*
 34 *provide for such improvements. Improvements of regional sig-*
 35 *nificance would include, but not be limited to, airports, mass trans-*

36 portation facilities, waste water treatment systems, flood control
37 systems, regional educational facilities, and regional parks or rec-
38 reational facilities.

39 *The land use element of the county master plan should only*
40 *provide a general guide for regional planning purposes, and should*
41 *depict in a general fashion those areas within the county which will*
42 *likely be used for the following purposes: (a) regional economic*
43 *development centers, including regional and community shopping*
44 *areas and areas of concentrated office or research employment, (b)*
45 *residential communities, including supportive retail services, (c)*
46 *areas of industrial development, including areas of manufacturing,*
47 *warehousing and transportation services, (d) lands for parks,*
48 *recreation and conservation, (e) wetlands to be preserved and*
49 *protected for the purposes of regional flood control and water*
50 *quality protection, and (f) agricultural development areas identi-*
51 *fied pursuant to section 11 of P. L. 1983, c. 32 (C. 4:1C-18).*

52 *(2) A comprehensive development strategy, providing a process*
53 *for accomplishing the land use plan, and providing measurable*
54 *criteria to be used in monitoring the effectiveness of the develop-*
55 *ment strategy on a year to year basis.*

56 *(3) A range of population and employment projections con-*
57 *sistent with the land use plan and development strategy. Demo-*
58 *graphic projections for the county should be consistent with pro-*
59 *jections prepared by the Office of State Planning, or, alternatively,*
60 *should contain a technical statement indicating why the county's*
61 *projections differ.*

62 *(4) A circulation element describing a transportation system*
63 *which can adequately support projected development, and on*
64 *implementation plan linking transportation improvements to the*
65 *anticipated pace of development. The circulation element shall be*
66 *consistent with the State comprehensive master plan for trans-*
67 *portation prepared in conformance with section 5 of P. L. 1966,*
68 *c. 301 (C. 27:1A-5), and shall include, as appropriate, provisions*
69 *for public transportation, highway circulation, aviation services,*
70 *freight movement and the special transportation needs of the*
71 *handicapped, the poor, the young and the aged. A circulation ele-*
72 *ment may also include provisions for pedestrians and bicycles. The*
73 *circulation element shall classify all roadways in the county by*
74 *function in accordance with procedures of the Department of*
75 *Transportation.*

1 4. R. S. 40:27-4 is amended to read as follows:

2 40:27-4. a. Before adopting the master plan or any part thereof
3 or any amendment thereof the board shall hold at least one public

4 hearing thereon, notice of the time and place of which shall be
5 given by one publication in a newspaper of general circulation in
6 the county and by the transmission by delivery or by certified mail,
7 at least 20 days prior to such hearing, of a notice of such hearing
8 and a copy of the proposed master plan, or part thereof or any
9 proposed amendment thereof to the municipal clerk and secretary
10 of the planning board of each municipality in the county. The
11 adoption of the plan or part or amendment thereof shall be by
12 resolution of the board carried by the affirmative vote of not less
13 than $\frac{2}{3}$ of the members of the board. The resolution shall refer
14 especially to the maps and descriptive and other matter intended
15 by the board to form the whole or part of the plan or amendment
16 and the action taken shall be recorded on the map and plan and
17 descriptive matter by the identifying signature of the secretary of
18 the board. An attested copy of the master plan or any amendments
19 thereof shall be certified to the [board of chosen freeholders]
20 governing body of the county, to the county park commission, if
21 such exists, and to the legislative body of every municipality
22 within the county.

23 b. In order to maximize the degree of [co-ordination] *coordina-*
24 *tion* between municipal and county plans and official maps, the
25 county planning board shall be notified in regard to the adoption
26 or amendment of any municipal master plan, official map or ordi-
27 nance under the ["Municipal Planned Unit Development Act
28 (1967)."] "*Municipal Land Use Law,*" P. L. 1975, c. 291 (C.
29 40:55D-1 et seq.). A copy of any such proposed plan, map or
30 amendment shall be forwarded to the county planning board for
31 review and report at least 20 days prior to the date of public
32 hearing thereon.

33 c. Within 30 days after the adoption of a zoning ordinance,
34 subdivision ordinance, master plan, official map, capital improve-
35 ment program, or amendments thereto, a copy of said document
36 shall be transmitted to the county planning board for its informa-
37 tion and files.

38 d. *The county planning board shall review any municipal master*
39 *plan, official map, capital improvement program, or amendments*
40 *thereto, or any ordinance submitted to it to evaluate the degree of*
41 *consistency with the county master plan. In the event that a*
42 *municipal master plan, map or ordinance is not consistent with the*
43 *master plan, the county planning board shall so inform the mu-*
44 *nicipality in writing, describing the nature of the inconsistency.*

1 5. R. S. 40:27-5 is amended to read as follows:

2 40:27-5. The [board of chosen freeholders] *governing body* in
3 any county after receiving the advice of the county planning board
4 [is hereby empowered to] shall adopt and establish and thereafter
5 as often as the [board] *governing body* may deem it for the public
6 interest, to] may change or [to] add to an official county map,
7 showing [the highways, roadways, parks, parkways, and sites for
8 public buildings or works, under county jurisdiction, or in the
9 acquisition, financing or construction of which the county has
10 participated or may be called upon to participate] *existing features*
11 *of the county and all projected improvements contained in the*
12 *county master plan, regardless of jurisdiction The official map*
13 *shall provide information with respect to the location and width*
14 *of public drainageways, public transportation facilities, streets,*
15 *roadways, parks, parkways and highways, including State high-*
16 *ways.*

17 Such map shall be deemed to have been established to conserve
18 and promote the public health, safety, convenience, and welfare.
19 Before acting thereon in the first instance and before adopting any
20 amendments thereto [such board of chosen freeholders] *the gov-*
21 *erning body*, after notice of time and place has been given by one
22 publication for each of three successive weeks in a newspaper of
23 general circulation in the county, and after written notice to the
24 county engineer, county planning board, county park commission,
25 if such exists, and such other county officers and departments as
26 the [board] *governing body* shall designate and to the municipal
27 clerk and secretary of the planning board of each municipality in
28 the county, shall hold a public hearing or hearings thereon at
29 which such representatives entitled to notice and such property
30 owners and others interested therein as shall so desire shall be
31 heard.

32 Before holding any such public hearing [such board of chosen
33 freeholders] *the governing body* shall submit such proposed change
34 or addition to the county planning board for its consideration and
35 advice and shall fix a reasonable time within which such county
36 planning board may report thereon, not, however, less than 20
37 days; upon receipt of such report from the county planning board
38 or upon the failure of such board to report within the time limit
39 so fixed [such board of chosen freeholders] *the governing body*
40 may thereupon act upon the proposed change, but any action ad-
41 verse to the report of the county planning board shall require the
42 affirmative vote of the majority of all the members of [such board
43 of chosen freeholders] *the governing body.*

44 When approved in whole or part by the [board of chosen free-
 45 holders] *governing body* in any county, such county official map
 46 or part thereof shall be deemed to be binding upon the [board of
 47 chosen freeholders] *governing body* of the county and the several
 48 county departments thereof, and upon other county boards hereto-
 49 fore or hereafter created under special laws, and no expenditure
 50 of public funds by such county for construction work or the ac-
 51 quisition of land for any purpose enumerated in [section] R. S.
 52 40:27-2 [of this Title] shall be made except in accordance with
 53 such official map.

54 Nothing herein prescribed shall be construed as restricting or
 55 limiting the powers of [boards of chosen freeholders] *county gov-*
 56 *erning bodies* from repairing, maintaining and improving any
 57 existing street, road, viaduct, bridge or parkway not shown on such
 58 official maps, which does not involve the acquisition of additional
 59 land or park commissions as otherwise provided by law.

1 6. Section 1 of P. L. 1968, c.285 (C. 40:27-6.1) is amended to
 2 read as follows:

3 1. As used in this act and in chapter 27 of Title 40 of the Re-
 4 vised Statutes, unless the context otherwise requires:

5 "*Applicant*" means a developer submitting an application for
 6 development.

7 "*Application for development*" means the application form and
 8 all accompanying documents required by ordinance for approval
 9 of a subsection plat, site plan, planned development, conditional use,
 10 zoning variance or direction of the issuance of a permit pursuant
 11 to section 25 or section 27 of P. L. 1975, c. 291 (C. 40:55D-34 and
 12 40:55D-36).

13 "*Chief executive officer*" means the director of the board of
 14 chosen freeholders appointed pursuant to R. S. 40:20-71, the county
 15 executive in the case of any county which has adopted the "county
 16 executive plan" pursuant to Article 3 of P. L. 1972, c. 154 (C.
 17 40:41A-31 et seq.), the county manager in the case of any county
 18 which has adopted the "county manager plan" pursuant to Article
 19 4 of P. L. 1972, c. 154 (C. 40:41A-45 et seq.), the county supervisor
 20 in the case of any county which has adopted the "county supervisor
 21 plan" pursuant to Article 5 of P. L. 1972, c. 154 (C. 40:41A-59) et
 22 seq.), or the board president in the case of any county which has
 23 adopted the "board president plan" pursuant to Article 6 of P. L.
 24 1972, c. 154 (C. 40:41A-72 et seq.).

25 "County master plan" and "master plan" means a composite of
 26 [the master plan for the physical development of the county, with
 27 the accompanying maps, plats, charts and descriptive and explana-

28 tory matter] *one or more written or graphic proposals and sup-*
 29 *porting documentation to guide the use of land within the county*
 30 *as set forth in and adopted by the county planning board pursuant*
 31 *to [Revised Statutes] R. S. 40:27-2[;].*

32 "County planning board" or "board" means a county planning
 33 board established by a county pursuant to R. S. 40:27-1 to exercise
 34 the duties set forth in such chapter, and means, in any county
 35 having adopted the provisions of the "Optional County Charter
 36 Law" (P. L. 1972, c. 154; C. 40:41A-1 et seq.), any department, di-
 37 vision, board or agency established pursuant to the administrative
 38 code of such county to exercise such duties, but only to the degree
 39 and extent that the requirements specified in such chapter for
 40 county planning boards do not conflict with the organization and
 41 structure of such department, division, agency or board as set
 42 forth in the administrative code of such county[;].

43 "Developer" means the legal or beneficial owner or owners of a
 44 lot or of any land proposed to be included in a proposed develop-
 45 ment, including the holder of an option or contract to purchase,
 46 or other person having an enforceable proprietary interest in such
 47 land.

48 "Development" means the division of a parcel of land into two
 49 or more parcels, the construction, reconstruction, conversion,
 50 structural alterations, relocation or enlargement of any building or
 51 other structure, or of any mining, excavation or landfill, and any
 52 use or change in the use of any building or other structure, or land
 53 or extension of use of land, for which permission may be required
 54 pursuant to this act.

55 "Development of potential regional significance" means any de-
 56 velopment which:

57 a. would permit construction of more than 250 residential dwell-
 58 ing units, or;

59 b. would permit construction of more than 100,000 gross square
 60 feet of non-residential floor space, or;

61 c. fronts on a county road or State highway, or;

62 d. affects State or county drainage facilities, provided that the
 63 development includes more than one acre of impervious surfaces,
 64 or;

65 e. adjoins land which is owned by the developer, or in which
 66 the developer holds a partial interest or an enforceable proprietary
 67 interest, if the adjacent land would permit under municipal zoning
 68 ordinances additional development resulting in the construction of
 69 a total of more than 100,000 square feet of non-residential floor
 70 space or more than 250 residential dwelling units, when combined

71 with the proposed development. For the purposes of this subsec-
72 tion, "developer" shall also mean:

73 (1) any person related to the developer by blood, marriage or
74 adoption, as well as any partnership or corporation in which the
75 developer holds a partnership or stock interest, either directly or
76 indirectly, of greater than 20%.

77 (2) for a partnership or corporation, any other partnership or
78 corporation in which the developer holds an interest, either directly
79 or indirectly, of greater than 30%, as well as any individual who
80 is an officer of the corporation or who holds a stock or partnership
81 interest in the corporation or partnership of greater than 20%.

82 "Governing body" means the board of chosen freeholders and
83 the appropriate chief executive officer.

84 "Official county map" means the map, with changes and additions
85 thereto, adopted and established, from time to time, by resolution
86 or ordinance of the [board of chosen freeholders] governing body
87 of the county pursuant to R. S. 40:27-5[:].

88 "Site plan" means a plan of an existing lot or plot or a sub-
89 divided lot on which is shown topography, location of all existing
90 and proposed buildings, structures, drainage facilities, roads,
91 rights-of-way, easements, parking areas, together with any other
92 information required by and at a scale specified by a site plan
93 review and approval resolution or ordinance adopted by the [board
94 of chosen freeholders] governing body pursuant to this act[:].

95 "Subdivision" means the division of a lot, tract, or parcel of
96 land into two or more lots, tracts, parcels or other divisions of
97 land for sale or development. The following shall not be considered
98 subdivisions within the meaning of this act, if no new streets are
99 created: (1) divisions of land found by the planning board or sub-
100 division committee thereof appointed by the chairman to be for
101 agricultural purposes where all resulting parcels are five acres or
102 larger in size, (2) divisions of property by testamentary or in-
103 testate provisions, (3) divisions of property upon court order,
104 including but not limited to judgments or foreclosure, (4) con-
105 solidation of existing lots by deed or other recorded instrument
106 and (5) the conveyance of one or more adjoining lots, tracts or
107 parcels of land, owned by the same person or persons and all of
108 which are found and certified by the administrative officer to con-
109 form to the requirements of the municipal development regula-
110 tions and are shown and designated as separate lots, tracts or
111 parcels on the tax map or atlas of the municipality. The term "sub-
112 division" shall also include the term "resubdivision."

113 "Subdivision applications" means the application for approval
 114 of a subdivision pursuant to the "Municipal Land Use Law" (P. L.
 115 1975, c. 291; C. 40:55D-1 et seq.) or an application for approval
 116 of a planned unit development pursuant to the "Municipal Land
 117 Use Law" (P. L. 1975, c. 291; C. 40:55D-1 et seq.).

1 7. Section 4 of P. L. 1968, c. 285 (C. 40:27-6.2) is amended to
 2 read as follows:

3 4. [The board of freeholders of any county having a county
 4 planning board shall provide for the review of all subdivisions of
 5 land within the county by said county planning board and for the
 6 approval of those subdivisions affecting county road or drainage
 7 facilities as set forth and limited hereinafter in this section. Such
 8 review or approval shall be in accordance with procedures and
 9 engineering and planning standards adopted by resolution of the
 10 board of chosen freeholders. These standards shall be limited to:]

11 a. *The governing body of each county shall provide by ordinance*
 12 *or resolution, as appropriate, for: (1) review by the county*
 13 *planning board of each application for development in the county*
 14 *for the purpose of determining whether or not that development*
 15 *is a development of potential regional significance, (2) review by*
 16 *the county planning board of each development of potential*
 17 *regional significance for the purpose of determining whether or*
 18 *not the development complies with the planning and engineering*
 19 *standards adopted in accordance with subsection b. of this section,*
 20 *and (3) certification by the county planning board to the appro-*
 21 *prate municipal authority either that the development is not a*
 22 *development of potential regional significance or that the develop-*
 23 *ment is a development of potential regional significance and com-*
 24 *plies with the planning and engineering standards set forth in the*
 25 *ordinance or resolution, as appropriate.*

26 b. *The planning and engineering standards for review of devel-*
 27 *opments of potential regional significance shall be set forth in the*
 28 *ordinance or resolution, as appropriate, and shall be strictly*
 29 *limited to the following:*

30 (1) *The requirement of adequate drainage facilities and ease-*
 31 *ments when, as determined by the county engineer in accordance*
 32 *with county-wide standards, the proposed [subdivision] develop-*
 33 *ment will cause storm water to drain either directly or indirectly*
 34 *to a county road or State highway, or through any drainageway,*
 35 *structure, pipe, culvert, or facility for which the county or State*
 36 *is responsible for the construction, maintenance, or proper func-*
 37 *tioning;*

38 [b.] (2) The requirement of dedicating rights-of-way or addi-
39 tional rights-of-way for any roads or drainageways shown on a
40 duly adopted county master plan or official county map, including
41 State highways;

42 [c. Where a proposed subdivision abuts a county road, or where
43 additional rights-of-way and physical improvements are required
44 by the county planning board, such improvements shall be]

45 (3) The requirement for improvements to a public transportation
46 system, county road or State highway, including off-site improve-
47 ments, as necessitated by the development, subject to recommenda-
48 tions of the county engineer [relating], or of the Commissioner of
49 Transportation in the case of a State highway or public transporta-
50 tion system. Such improvements shall relate to the safety and
51 convenience of the traveling public and may include additional
52 pavement widths, marginal access streets, reverse frontage, pro-
53 visions for public transportation services, and other [county]
54 highway and traffic design features necessitated by an increase in
55 traffic volumes, potential safety hazards or impediments to traffic
56 flows caused by the [subdivision] development;

57 [d.] (4) The requirement of performance guarantees and pro-
58 cedures for the release of same, maintenance bonds for not more
59 than two years duration from date of acceptance of improvements
60 and agreements specifying minimum standards of construction for
61 required drainage or transportation improvements. The amount
62 of any performance guarantee or maintenance bond shall be set by
63 the planning board upon the advice of the county engineer and
64 shall not exceed the full cost of the facility and installation costs
65 or the developer's proportionate share thereof, computed on the
66 basis of [his] the acreage of the development related to the acreage
67 of the total drainage basin involved plus 10% for contingencies
68 or, in the case of transportation improvements, on the extent to
69 which the development will contribute to the need for the improve-
70 ment. In lieu of providing any required drainage easement or
71 transportation improvement, a cash contribution may be deposited
72 with the county to cover the cost or the proportionate share thereof
73 for securing said easement or improvement. In lieu of installing
74 any such required facilities exterior to the proposed plat, a cash
75 contribution may be deposited with the county to cover the cost or
76 proportionate share thereof for the future installation of such
77 facilities. Any and all moneys received by the county to insure
78 performance under the provisions of this act shall be paid to the
79 county treasurer who shall provide a suitable depository therefor.
80 Such funds shall be used only for [county] drainage or transporta-

81 tion projects or [improvement] improvements for which they are
 82 deposited unless such projects are not initiated for a period of 10
 83 years, at which time said funds shall be transferred to the general
 84 fund of the county, provided that no assessment of benefits for
 85 [such] the same facilities as a local improvement shall thereafter
 86 be levied against the owners of the lands upon which the devel-
 87 oper's prior contribution had been based. Any moneys or guaran-
 88 tees received by the county under this paragraph shall not duplicate
 89 bonds or other guarantees required by municipalities for municipal
 90 purposes.

91 [e.] (5) *The requirement of conformity with access standards*
 92 *adopted by the Commissioner of the Department of Transportation*
 93 *under section 3 of the "State Highway Access Management Act of*
 94 *1986," P. L., c. . . . (C.) (now pending before*
 95 *the Legislature as Assembly Bill No. 3291 and Senate Bill No.*
 96 *2627 of 1986).*

97 (6) *The requirement of conformity with those elements of the*
 98 *county master plan relating to regional transportation, water*
 99 *supply or water quality resources, provided that the board has*
 100 *negotiated cross-acceptance of the plan with the State Planning*
 101 *Commission pursuant to section 7 of the "State Planning Act,"*
 102 *P. L. 1985. c. 398 (C. 52:18A-302), and the requirement of con-*
 103 *formity with any plan adopted in accordance with the "Solid*
 104 *Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.), the*
 105 *"Water Quality Planning Act," P. L. 1977, c. 75 (C. 58:11A-1 et*
 106 *seq.), or the "Agriculture Retention and Development Act," P. L.*
 107 *1983, c. 32 (C. 4:1C-11 et al.). Where the board finds that a devel-*
 108 *opment does not conform with a plan as required by the ordinance*
 109 *or resolution, as appropriate, the board may, to the extent per-*
 110 *mitted by law, require in lieu thereof contributions or improve-*
 111 *ments to mitigate any regional impact resulting from the failure*
 112 *to conform with the plan, and it may require additional improve-*
 113 *ments, as necessary, to ensure that the development will be con-*
 114 *sistent with the objectives of the plan.*

115 (7) Provision may be made for waiving or adjusting require-
 116 ments under the [subdivision] ordinance or resolution governing
 117 the review of developments of potential regional significance to
 118 alleviate hardships which would result from strict compliance with
 119 the [subdivision] standards. Where provision is made for waiving
 120 or adjusting requirements, criteria shall be included in the
 121 standards adopted by the [board of chosen freeholders] county
 122 governing body to guide actions of the county planning board.

123 c. Notice of the public hearing on a proposed ordinance or resolu-
 124 tion, as appropriate, of the [board of chosen freeholders] county
 125 governing body establishing procedures and engineering standards
 126 [to govern land subdivision within the county] for developments
 127 of potential regional significance, and a copy of such ordinance or
 128 resolution, shall be given by delivery or by certified mail to the
 129 municipal clerk and secretary of the planning board of each munici-
 130 pality in the county, and to the planning board of each adjoining
 131 county, at least 10 days prior to such hearing and to the Commis-
 132 sioner of the Department of Environmental Protection and the
 133 Commissioner of the Department of Transportation at least 20
 134 days prior to such hearing.

1 8. Section 5 of P. L. 1968, c. 285 (C. 40:27-6.3) is amended to
 2 read as follows:

3 5. Each [subdivision] application for development shall be sub-
 4 mitted to the county planning board for review and, where re-
 5 quired, approval] certification prior to [approval] being accepted
 6 as complete by the local municipal approving authority. County
 7 [approval] certification of any [subdivision] application for
 8 development [affecting county road or drainage facilities] shall be
 9 limited by and based upon the rules, regulations and standards
 10 established by and duly set forth in [a] the ordinance or resolu-
 11 tion [adopted by the board of chosen freeholders] providing for
 12 review and certification of development applications. The munici-
 13 pal approval authority shall [either defer taking final action on a
 14 subdivision] not accept an application for development as complete
 15 until receipt of the certification of the county planning board [re-
 16 port thereon or approve the subdivision application subject to its
 17 timely receipt of a favorable report thereon by the county planning
 18 board].

19 [The] a. *Developments of potential regional significance.*

20 (1) If an application for development is for a development of
 21 potential regional significance, the county planning board shall
 22 report to the municipal authority whether the development com-
 23 plies with the standards and procedures set forth in the county
 24 subdivision ordinance or resolution within [30] 45 days from the
 25 date of [receipt of the] submission of a complete application. If
 26 the county planning board fails to report to the municipal approv-
 27 ing authority within the [30-day] 45-day period, [said subdivision]
 28 the application for development shall be deemed to have been
 29 [approved] certified by the county planning board unless, by
 30 mutual agreement between the county planning board and municipi-
 31 pal approving authority, with approval of the applicant, the [30-

32 day] 45-day period shall be extended for an additional 30-day
33 period], and any such extension shall so extend the time within
34 which a municipal approving authority shall be required by law
35 to act thereon].

36 (2) An application for development shall be complete for pur-
37 poses of commencing the 45-day period when so certified by the
38 county planning board or its authorized committee or designee.
39 In the event that the board, committee or designee fails to certify
40 the application to be complete within seven days of the date of
41 submission, the application shall be deemed complete upon the
42 expiration of the seven-day period unless: (a) the application
43 lacks information indicated on a checklist adopted by ordinance or
44 resolution, as appropriate, and provided to the applicant; and (b)
45 the board or its authorized committee or designee has notified the
46 applicant, in writing, of the deficiencies in the application within
47 seven days of submission of the application. The board or its
48 designee may subsequently require correction of any information
49 found to be in error and submission of additional information not
50 specified in the ordinance or any revisions in the accompanying
51 documents, as are reasonably necessary to make an informed
52 decision as to whether the requirements necessary for certification
53 of the application for development have been met. The application
54 shall not be deemed incomplete for lack of any such additional in-
55 formation or any revisions in the accompanying documents so re-
56 quired.

57 (3) Within three working days from the initial date of submis-
58 sion of an application for a development of potential regional
59 significance, the county planning board shall submit a copy of the
60 application to the Department of Environmental Protection and
61 the Department of Transportation, and shall solicit comments from
62 each department.

63 (4) If the development of potential regional significance is
64 situated within one mile of an adjoining county, the county planning
65 board shall provide to the planning board of the adjoining county
66 by personal service or certified mail written notification of the
67 application within five working days of the initial date of submis-
68 sion. The notice shall identify the location of the development both
69 by tax map description and by street address, and it shall indicate
70 the size of the development and the schedule the planning board
71 will adopt in conducting its review.

72 b. The county planning board shall return to the municipal
73 approving authority within five working days of its receipt any
74 application for development which is not a development of potential

75 regional significance, together with a certification that the develop-
 76 ment is not affected by the county subdivision ordinance or regula-
 77 tion.

1 9. Section 6 of P. L. 1968, c. 285 (C. 40:27-6.4) is amended to
 2 read as follows:

3 6. The county planning board shall review each [subdivision]
 4 application for a development of potential regional significance
 5 and withhold [approval] certification if [said proposed subdivi-
 6 sion] the development does not meet the [subdivision approval]
 7 standards previously adopted by the [board of chosen free-
 8 holders.] governing body in accordance with section 4 of this act.
 9 In the event of the withholding of [approval, or the disapproval]
 10 certification of [a subdivision] an application for development of
 11 potential regional significance, the reasons for such action shall
 12 be set forth in writing and [a copy] copies thereof shall be trans-
 13 mitted to the applicant and to the municipal approving authority.

1 10. Section 7 of P. L. 1968, c. 285 (C. 40:27-6.5) is amended to
 2 read as follows:

3 7. The county recording officer shall not accept for filing any
 4 subdivision plat unless it bears the certification [of either approval
 5 or of review and exemption] of the authorized county planning
 6 board officer or staff member indicating compliance with the pro-
 7 visions of this act and standards adopted pursuant thereto, in
 8 addition to all other requirements for filing a subdivision plat in-
 9 cluding compliance with the provisions of ["The Map Filing Law"
 10 (P. L. 1960, c. 141)] "the map filing law", P. L. 1960, c. 141 (C.
 11 46:23-9.9 et seq.). In the event the county planning board shall
 12 have waived its right to review [approve or disapprove] and
 13 certify a subdivision by failing to report to the municipal approval
 14 authority within the [30-day] 45-day period or the mutually
 15 agreed upon 30-day extension period, as outlined in section 5 above,
 16 the subdivision shall be deemed to have county planning board
 17 [approval] certification, and at the request of the applicant, the
 18 secretary of the county planning board shall attest on the plat to
 19 the failure of the county planning board to report within the re-
 20 quired time period, which shall be sufficient authorization for
 21 further action by the municipal planning board and acceptance
 22 thereof for filing by the county recording officer.

1 11. Section 9 of P. L. 1968, c. 285 (C. 40:27-6.7) is amended to
 2 read as follows:

3 9. The municipal or other local agency or individual with au-
 4 thority to approve [the] site [plan] plans or issue [a] building

5 **[permit]** *permits* shall defer action on any application *for develop-*
 6 *ment* **[requiring county approval pursuant to section 7 of this act]**
 7 until the same shall have been **[submitted to]** *certified by* the
 8 county planning board **[for its approval of the site plan]**. **[The**
 9 county planning board shall have 30 days from the receipt of a site
 10 plan to report to the appropriate local authority. In the event of
 11 disapproval, such report shall state the specific reasons therefor.
 12 If the county planning board fails to report to the municipal
 13 approving or issuing authority within the 30-day period, said site
 14 plan shall be deemed to have been approved by the county planning
 15 board. Upon mutual agreement between the county planning board
 16 and the municipal approving authority, with approval of the appli-
 17 cant, the 30-day period may be extended for an additional 30-day
 18 period.]

1 12. Section 10 of P. L. 1968, c. 285 (C. 40:27-6.8) is amended to
 2 read as follows:

3 10. The county planning board may by resolution vest its power
 4 to review and **[approve subdivisions,]** *certify applications for*
 5 *development* pursuant to the provisions of section 4 through **[6 of**
 6 this act, and the power to review and approve site plans pursuant
 7 to the provisions of section 8 and **] 9** of this act with the county
 8 planning director and a designated committee of members of said
 9 county planning board.

1 13. Section 11 of P. L. 1968, c. 285 (C. 40:27-6.9) is amended to
 2 read as follows:

3 11. If said action is taken by the planning director and a com-
 4 mittee of the board, said applicant may file an appeal in writing to
 5 the county planning board within 10 days after the date of notice
 6 by certified mail of the **[said]** action. Any person aggrieved by
 7 the action of the county planning board in regard to **[subdivision]**
 8 *the review and [approval] certification [or site plan review and*
 9 *approval] of an application for development* may file an appeal in
 10 writing to the **[board of chosen freeholders]** *county governing*
 11 *body* within 10 days after the date of notice by certified mail of
 12 *said action*. The county planning board or the **[board of chosen**
 13 *freeholders]* *governing body* to which an appeal is taken shall
 14 consider such appeal at a regular or special public meeting within
 15 45 days from the date of its filing. Notice of said hearing shall be
 16 made by certified mail at least 10 days prior to the hearing to the
 17 applicant and to such of the following officials as deemed appro-
 18 priate for each specific case: the municipal clerk, municipal
 19 planning board, board of adjustment, building inspector, zoning
 20 officer, *chief executive officer of the county*, board of chosen free-

21 holders and the county planning board. The *county planning* board
 22 [to which appeal is taken] or the governing body, as appropriate,
 23 shall render a decision within 30 days from the date of the hear-
 24 ing.

1 14. Section 12 of P. L. 1968, c. 285 (C. 40:27-6.10) is amended
 2 to read as follows:

3 12. In order that county planning boards shall have a complete
 4 file of the planning and zoning ordinances of all municipalities in
 5 the county, each municipal clerk shall file with the county planning
 6 board a copy of the planning and zoning ordinances of the munic-
 7 ipality in effect on the effective date of this act and shall notify
 8 the county planning board of the introduction of any revision or
 9 amendment of such an ordinance [which affects lands adjoining
 10 county roads or other county lands, or lands lying within 200 feet
 11 of a municipal boundary, or proposed facilities or public lands
 12 shown on the county master plan or official county map.] Such
 13 notice shall be given to the county planning board at least 10 days
 14 prior to the public hearing thereon by personal delivery or by
 15 certified mail of a copy of the official notice of the public hearing
 16 together with a copy of the proposed ordinance.

1 15. Section 13 of the P. L. 1968, c. 285 (C. 40:27-6.11) is amended
 2 to read as follows:

3 13. The county planning board shall be notified of any applica-
 4 tion to the board of adjustment under [Revised Statute 40:55-39]
 5 section 57 of P. L. 1975, c. 291 (C. 40:55D-70) in such cases where
 6 the land involved fronts upon an existing [county road or pro-
 7 posed road] or proposed county road or State highway shown on
 8 the official county map or on the county master plan, adjoins [the]
 9 other county land or is situated within 200 feet of a municipal
 10 boundary. Notice of hearings on such applications shall be fur-
 11 nished by the appellant in accordance with [P. L. 1965, c. 162 (C.
 12 40:55-53)] section 7.1 of P. L. 1975, c. 291 (C. 40:55D-12).

1 16. Section 15 of P. L. 1968, c. 285 (C. 40:27-6.13) is amended
 2 to read as follows:

3 15. Whenever a hearing is required before a zoning board of
 4 adjustment or the governing body of a municipality in respect to
 5 the granting of a variance or establishing or amending an official
 6 municipal map involving property adjoining a county road or
 7 State highway or within 200 feet of an adjoining municipality,
 8 and notice of said hearing is required to be given, the person
 9 giving such notice shall also, at least 10 days prior to the hearing,
 10 give notice thereof in writing by certified mail to the county
 11 planning board. The notice shall contain a brief description of

12 the property involved, its location, a concise statement of the
13 matters to be heard and the date, time and place of such hearing.

1 17. Section 5 of P. L. 1984, c. 20 (C. 40:55D-10.3) is amended to
2 read as follows:

3 5. An application for development shall be complete for pur-
4 poses of commencing the applicable time period for action by a
5 municipal agency, when so certified by the municipal agency or its
6 authorized committee or designee. *No application shall be so*
7 *certified, however, unless and until the application has been certified*
8 *by the county planning board to be in compliance with the develop-*
9 *ment ordinances or resolutions, as appropriate, of the county, or*
10 *until the application has been so certified as a result of the failure*
11 *of the county planning board to act upon the application within*
12 *the time period required by section 5 of P. L. 1968, c. 295 (C.*
13 *40:27-6.3).* In the event that the municipal agency [] or its au-
14 thorized committee or designee does not certify the application to
15 be complete within 45 days of the date of its submission, the appli-
16 cation shall be deemed complete upon the expiration of the 45-day
17 period for purposes of commencing the applicable time period, or
18 upon the date on which the certification of the county planning
19 board is received, whichever date is later, unless: a. the application
20 lacks information indicated on a checklist adopted by ordinance
21 and provided to the applicant; and b. the municipal agency or its
22 authorized committee or designee has notified the applicant, in
23 writing, of the deficiencies in the application within 45 days of sub-
24 mission of the application. The applicant may request that one
25 or more of the submission requirements be waived, in which event
26 the agency or its authorized committee shall grant or deny the re-
27 quest within 45 days. Nothing herein shall be construed as dimin-
28 ishing the applicant's obligation to prove in the application process
29 that he is entitled to approval of the application. The municipal
30 agency may subsequently require correction of any information
31 found to be in error and submission of additional information not
32 specified in the ordinance or any revisions in the accompanying
33 documents, as are reasonably necessary to make an informed
34 decision as to whether the requirements necessary for approval of
35 the application for development have been met. The application
36 shall not be deemed incomplete for lack of any such additional in-
37 formation or any revisions in the accompanying documents so re-
38 quired by the municipal agency.

1 18. Section 28 of P. L. 1975, c. 291 (C. 40:55D-37) is amended
2 to read as follows:

3 28. Grant of power; referral of proposed ordinance; county
4 planning board of **[approval]** *certification*.

5 a. The governing body may by ordinance require approval of
6 subdivision plats by resolution of the planning board as a condition
7 for the filing of such plats with the county recording officer and
8 approval of site plans by resolution of the planning board as a
9 condition for the issuance of a permit for any development, except
10 that subdivision or individual lot applications for detached one or
11 two-dwelling unit buildings shall be exempt from such site plan
12 review and approval; provided that the resolution of the board of
13 adjustment shall substitute for that of the planning board whenever
14 the board of adjustment has jurisdiction over a subdivision or site
15 plan pursuant to subsection 63b. of this act.

16 b. Prior to the hearing on adoption of an ordinance providing
17 for planning board approval of either subdivisions or site plans or
18 both or any amendment thereto, the governing body shall refer any
19 such proposed ordinance or amendment thereto to the planning
20 board pursuant to subsection 17a. of this act.

21 c. Each application for subdivision approval**[**, where required
22 pursuant to section 5 of P. L. 1968, c. 235 (C. 40:27-6.3)**]** and each
23 application for site plan approval**[**, where required pursuant to
24 section 8 of P. L. 1968, c. 235 (C. 40:27-6.6)**]** shall be submitted by
25 the applicant to the county planning board for **[review or ap-**
26 **proval]** *certification* as required by **[the aforesaid sections and,**
27 **the]** *sections 5 through 7 and section 9 of P. L. 1968, c. 235 (C.*
28 *40:27-6.3 through 40:27-6.5 and 40:27-6.7)*. The municipal plan-
29 ning board shall **[condition any approval that it grants upon timely**
30 **receipt of a favorable report on the application by]** *not accept*
31 *an application for development as complete until it has received*
32 *a certification from the county planning board indicating that the*
33 *application is in accordance with the county's ordinances or resolu-*
34 *tions regulating development, or [approval by] until certification*
35 *is obtained from the county planning board [by] as a result of its*
36 *failure to report thereon within the required time period.*

37

1 19. Section 14 of P. L. 1979, c. 216 (C. 40:55D-46.1) is amended
2 to read as follows:

3 14. An ordinance requiring, pursuant to section 7.1 of **[this**
4 **act]** *P. L. 1975 c. 291 (C. 40:55D-12)*, notice of hearings on ap-
5 plications for development for conventional site plans, may au-
6 thorize the planning board to waive notice and public hearing for
7 an application for development, if the planning board or site plan
8 subcommittee of the board appointed by the chairman finds that the
9 application for development conforms to the definition of "minor

10 site plan." Minor site plan approval shall be deemed to be final
11 approval of the site plan by the board, provided that the board or
12 said subcommittee may condition such approval on terms ensuring
13 the provision of improvements pursuant to sections 29, 29.1, 29.3
14 and 41 of [this act] P. L. 1975, c. 291, (C. 40:55D-38, 40:55D-39,
15 40:55D-41 and 40:55D-53).

16 a. Minor site plan approval shall be granted or denied within
17 45 days of the date of submission of a complete application to the
18 administrative officer, or within such further time as may be
19 consented to by the applicant. Failure of the planning board to
20 act within the period prescribed shall constitute minor site plan
21 approval.

22 b. [Whenever review or approval of the application by the
23 county planning board is required by section 8 of P. L. 1968, c. 285
24 (C. 40:27-6.6), the municipal planning board shall condition any
25 approval that it grants upon timely receipt of a favorable report
26 on the application by the county planning board or approval by the
27 county planning board by its failure to report thereon within the
28 required time period.] (*Deleted by amendment P. L. , c.*)

29 c. The zoning requirements and general terms and conditions,
30 whether conditional or otherwise, upon which minor site plan ap-
31 proval was granted, shall not be changed for a period of [2] two
32 years after the date of minor site plan approval.

1 20. Section 35 of P. L. 1975, c. 291 (C. 40:55D-47) is amended
2 to read as follows:

3 35. Minor subdivision.

4 An ordinance requiring approval of subdivisions by the planning
5 board may authorize the planning board to waive notice and public
6 hearing for an application for development if the planning board or
7 subdivision committee of the board appointed by the chairman find
8 that the application for development conforms to the definition of
9 "minor subdivision" in section 3.2 of this act. Minor subdivision
10 approval shall be deemed to be final approval of the subdivision by
11 the board; provided that the board or said subcommittee may
12 condition such approval on terms ensuring the provision of im-
13 provements pursuant to sections 29, 29.1, 29.3 and 41 of this act.

14 Minor subdivision approval shall be granted or denied within 45
15 days of the date of submission of a complete application to the
16 administrative officer, or within such further time as may be
17 consented to by the applicant. Failure of the planning board to act
18 within the period prescribed shall constitute minor subdivision
19 approval and a certificate of the administrative officer as to the
20 failure of the planning board to act shall be issued on request of

21 the applicant; and it shall be sufficient in lieu of the written en-
 22 dorsement or other evidence of approval, herein required, and shall
 23 be so accepted by the county recording officer for purposes of filing
 24 subdivision plats.

25 **【Whenever review or approval of the application by the county**
 26 **planning board is required by section 5 of P. L. 1968, c. 285 (C.**
 27 **40:27-6.3), the municipal planning board shall condition any ap-**
 28 **proval that it grants upon timely receipt of a favorable report on**
 29 **the application by the county planning board or approval by the**
 30 **county planning board by its failure to report thereon within the**
 31 **required time period.】**

32 Approval of a minor subdivision shall expire 190 days from the
 33 date of municipal approval unless within such period a plat in
 34 conformity with such approval and the provisions of **【the "Map**
 35 **Filing Law,"】** *"the map filing law,"* P. L. 1960, c. 141 (C. 46:23-9.9
 36 et seq.), or a deed clearly describing the approved minor subdivi-
 37 sion is filed by the developer with the county recording officer, the
 38 municipal engineer and the municipal tax assessor. Any such plat
 39 or deed accepted for such filing shall have been signed by the chair-
 40 man and secretary of the planning board. In reviewing the applica-
 41 tion for development for a proposed minor subdivision the plan-
 42 ning board may be permitted by ordinance to accept a plat not in
 43 conformity with **【the "Map Filing Act,"】** *"the map filing law,"* P. L.
 44 1960, c. 141 (C. 46:23-9.9 et seq.); provided that if the developer
 45 chooses to file the minor subdivision as provided herein by plat
 46 rather than deed such plat shall conform with the provisions of
 47 said act.

48 The zoning requirements and general terms and conditions,
 49 whether conditional or otherwise, upon which minor subdivision
 50 approval was granted, shall not be changed for a period of two years
 51 after the date of minor subdivision approval; provided that the
 52 approved minor subdivision shall have been duly recorded as pro-
 53 vided in this section.

1 21. Section 38 of P. L. 1975, c. 291 (C. 40:55D-50) is amended
 2 to read as follows:

3 38. Final approval of site plans and major subdivisions:

4 a. The planning board shall grant final approval if the de-
 5 tailed drawings, specifications and estimates of the application for
 6 final approval conform to the standards established by ordinance
 7 for final approval, the conditions of preliminary approval and, in
 8 the case of a major subdivision, the standards prescribed by **【the**
 9 **"Map Filing Law,"】** *"the map filing law,"* P. L. 1960, c. 141 (C.

10 46:23-9.9 et seq.): provided that in the case of a planned unit
 11 development, planned unit residential development or residential
 12 cluster, the planning board may permit minimal deviations from
 13 the conditions of preliminary approval necessitated by change of
 14 conditions beyond the control of the developer since the date of
 15 preliminary approval without the developer being required to sub-
 16 mit another application for development for preliminary approval.

17 b. Final approval shall be granted or denied within 45 days
 18 after submission of a complete application to the administrative
 19 officer, or within such further time as may be consented to by the
 20 applicant. Failure of the planning board to act within the period
 21 prescribed shall constitute final approval and a certificate of the
 22 administrative officer as to the failure of the planning board to act
 23 shall be issued on request of the applicant, and it shall be sufficient
 24 in lieu of the written endorsement or other evidence of approval.
 25 herein required, and shall be so accepted by the county recording
 26 officer for purposes of filing subdivision plats.

27 [Whenever review or approval of the application by the county
 28 planning board is required by section 5 of P. L. 1968, c. 285 (C.
 29 40:27-6.3), in the case of a subdivision, or section 8 of P. L. 1968,
 30 c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal plan-
 31 ning board shall condition any approval that it grants upon timely
 32 receipt of a favorable report on the application by the county plan-
 33 ning board or approval by the county planning board by its failure
 34 to report thereon with the required time period.]

1 22. Section 48 of P. L. 1975, c. 291 (C. 40:55D-61) is amended
 2 to read as follows:

3 48. Time periods.

4 Whenever an application for approval of a subdivision plat, site
 5 plan or conditional use includes a request for relief pursuant to
 6 section 47 of this act, the planning board shall grant or deny
 7 approval of the application within 120 days after submission by a
 8 developer of a completed application to the administrative officer or
 9 within such further time as may be consented to by the applicant.
 10 In the event that the developer elects to submit separate consec-
 11 tive applications, the aforesaid provision shall apply to the applica-
 12 tion for approval of the variance or direction for issuance of a
 13 permit. The period for granting or denying and subsequent ap-
 14 proval shall be as otherwise provided in this act. Failure of the
 15 planning board to act within the period prescribed shall constitute
 16 approval of the application and a certificate of the administrative
 17 officer as to the failure of the planning board to act shall be issued
 18 on request of the applicant, and it shall be sufficient in lieu of the
 19 written endorsement or other evidence of approval herein required.

20 and shall be so accepted by the county recording officer for purposes
21 of filing subdivision plats.

22 **【Whenever review or approval of the application by the county
23 planning board is required by section 5 of P. L. 1968, c. 285 (C.
24 40:27-6.3), in the case of a subdivision, or section 8 of P. L. 1968,
25 c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal plan-
26 ning board shall condition any approval that it grants upon timely
27 receipt of a favorable report on the application by the county
28 planning board or approval by the county planning board by its
29 failure to report thereon within the required time period.】**

1 23. Section 54 of P. L. 1975, c. 291 (C. 40:55D-67) is amended
2 to read as follows:

3 54. Conditional uses; site plan review.

4 a. A zoning ordinance may provide for conditional uses to be
5 granted by the planning board according to definite specifications
6 and standards which shall be clearly set forth with sufficient cer-
7 tainty and definiteness to enable the developer to know their limit
8 and extent. The planning board shall grant or deny an application
9 for a conditional use within 95 days of submission of a complete
10 application by a developer to the administrative officer, or within
11 such further time as may be consented to by the applicant.

12 b. The review by the planning board of a conditional use shall
13 include any required site plan review pursuant to article 6 of this
14 act. The time period for action by the planning board on condi-
15 tional uses pursuant to subsection a. of this section shall apply to
16 such site plan review. Failure of the planning board to act within
17 the period prescribed shall constitute approval of the application
18 and a certificate of the administrative officer as to the failure of
19 the planning board to act shall be issued on request of the appli-
20 cant, and it shall be sufficient in lieu of the written endorsement or
21 other evidence of approval, herein required, and shall be so accepted
22 by the county recording officer for purposes of filing subdivision
23 plats.

24 **【Whenever review or approval of the application by the county
25 planning board is required by section 5 of P. L. 1968, c. 285 (C.
26 40:27-6.3), in the case of a subdivision, or section 8 of P. L. 1968,
27 c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal
28 planning board shall condition any approval that it grants upon
29 timely receipt of a favorable report on the application by the
30 county planning board or approval by the county planning board
31 by its failure to report thereon within the required time period.】**

1 24. Section 63 of P. L. 1975, c. 291 (C. 40:55D-76) is amended
2 to read as follows:

3 63. Other powers.

4 a. Sections 59 through 62 of this article shall apply to the power
5 of the board of adjustment to:

6 (1) Direct issuance of a permit pursuant to section 25 of this
7 act for a building or structure in the bed of a mapped street or
8 public drainage way, flood control basin on public area reserved
9 pursuant to section 23 of this act; or

10 (2) Direct issuance of a permit pursuant to section 27 of this
11 act for a building or structure not related to a street.

12 b. The board of adjustment shall have the power to grant, to
13 the same extent and subject to the same restrictions as the plan-
14 ning board, subdivision or site plan approval pursuant to article
15 6 of this act or conditional use approval pursuant to section 54
16 of this act, whenever the proposed development requires approval
17 by the board of adjustment of a variance pursuant to subsection d.
18 of section 57 of this act (C. 40:55D-70). The developer may elect
19 to submit a separate application requesting approval of the vari-
20 ance and a subsequent application for any required approval of a
21 subdivision, site plan or conditional use. The separate approval of
22 the variance shall be conditioned upon grant of all required subse-
23 quent approvals by the board of adjustment. No such subsequent
24 approval shall be granted unless such approval can be granted
25 without substantial detriment to the public good and without sub-
26 stantial impairment of the intent and purpose of the zone plan and
27 zoning ordinance. The number of votes of board members required
28 to grant any such subsequent approval shall be as otherwise pro-
29 vided in this act for the approval in question, and the special vote
30 pursuant to the aforesaid subsection d. of section 57 shall not be
31 required.

32 c. Whenever an application for development requests relief
33 pursuant to subsection b. of this section, the board of adjustment
34 shall grant or deny approval of the application within 120 days
35 after submission by a developer of a complete application to the
36 administrative officer or within such further time as may be con-
37 sented to by the applicant. In the event that the developer elects
38 to submit separate consecutive applications, the aforesaid pro-
39 vision shall apply to the application for approval of the variance.
40 The period for granting or denying any subsequent approval shall
41 be as otherwise provided in this act. Failure of the board of
42 adjustment to act within the period prescribed shall constitute
43 approval of the application, and a certificate of the administrative
44 officer as to the failure of the board to act shall be issued on
45 request of the applicant, and it shall be sufficient in lieu of the

46 written endorsement or other evidence of approval herein required.
 47 and shall be so accepted by the county recording officer for purposes
 48 of filing subdivision plats.

49 [Whenever review or approval of the application by the county
 50 planning board is required by section 5 of P. L. 1968, c. 285 (C.
 51 40:27-6.3), in the case of a subdivision, or section 8 of P. L. 1968.
 52 c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal board
 53 of adjustment shall condition any approval that it grants upon
 54 timely receipt of a favorable report on the application by the
 55 county planning board or approval by the county planning board
 56 by its failure to report thereon within the required time.]

57 An application under this section may be referred to any ap-
 58 propriate person or agency for its report; provided that such
 59 reference shall not extend the period of time within which the
 60 zoning board of adjustment shall act.

1 25. R. S. 27:7-21 is amended to read as follows:

2 27:7-21. In addition to, and not in limitation of, his general
 3 powers, the commissioner may:

4 a. Determine and adopt rules, regulations and specifications
 5 and enter into contracts covering all matters and things incident
 6 to the acquisition, improvement, betterment, construction, recon-
 7 struction, maintenance and repair of State highways;

8 b. Execute and perform as an independent contractor or through
 9 contracts made in the name of the State, all work incident to the
 10 maintenance and repair of State highways;

11 c. Establish and maintain as an independent contractor or em-
 12 ployer a patrol repair system for the proper and efficient mainte-
 13 nance and repair of State highways;

14 d. Employ and discharge, subject to the provisions of the Civil
 15 Service law, all foremen and laborers, prescribe their qualifica-
 16 tions and furnish all equipment, tools and material necessary for
 17 such patrol repair system;

18 e. Widen, straighten and regrade State highways;

19 f. Vacate any State highway or part thereof;

20 g. The commissioner and his authorized agents and employees
 21 may enter upon any lands, waters and premises in the State, after
 22 giving written notice to the recorded owner at least three days
 23 prior thereto, for the purpose of making surveys, soundings, drill-
 24 ings, borings and examinations as he may deem necessary or con-
 25 venient for the purposes of this Title, and such entry shall not be
 26 deemed a trespass; nor shall such entry be deemed an entry under
 27 any condemnation proceedings which may be then pending. The

28 commissioner shall make reimbursement for any actual damages
 29 resulting to such lands, waters and premises as a result of such
 30 activities; **[and]**

31 l. Enter into cooperative agreements with any State depart-
 32 ment, agency or authority or any county or municipality enabling
 33 the State to negotiate for and condemn lands and also provide re-
 34 location services and payments deemed necessary for the effectua-
 35 tion of State or Federally financed State Aid Transportation and
 36 related **[Programs.] programs;**

37 i. *File with the county clerk of each county a general plan or*
 38 *standard cross-section depicting a standard right-of-way sufficient*
 39 *to accommodate future improvements along each State highway*
 40 *within the county, including future grade separations; and*

41 j. Do whatever may be necessary or desirable to effectuate the
 42 purposes of this Title.

1 26. Section 9 of P. L. 1968, c. 393 (C. 27:7-66) is amended to
 2 read as follows:

3 9. Whenever the location of a proposed line of any new State
 4 highway *or the proposed lines of the right-of-way required for*
 5 *widening, intersection improvements, straightening of alignment*
 6 *or other improvements on an existing State highway shall have*
 7 *been approved by the commissioner, the commissioner may file a*
 8 *certified copy of a map, plan or report indicating such proposed*
 9 *line or lines, the width whereof shall not exceed what is reason-*
 10 *ably required in accordance with recognized standards of highway*
 11 *engineering practice, with the county clerk of each county within*
 12 *which the proposed line or lines of said new highway or highway*
 13 *improvement is to be located and with the municipal clerk, plan-*
 14 *ning board and building inspector of each municipality within*
 15 *which said line or lines is located. The commissioner shall ac-*
 16 *company such filing with his certification that residents of the*
 17 *municipality in which such filing is made have been afforded ade-*
 18 *quate opportunity to express any objections that they may have to*
 19 *the proposed location of such highway or highway improvement*
 20 **[at a public hearing held at a convenient location for the purpose].**

21 Any map, plan or report filed pursuant to this section may be
 22 amended from time to time by filing certified copies of a map, plan
 23 or report indicating any changes to be made in the location of pro-
 24 posed lines with the officials and in the manner set forth herein.

1 27. Section 10 of P. L. 1968, c. 393 (C. 27:7-67) is amended to
 2 read as follows:

3 10. (a) Whenever a map, plan or report indicating a proposed
 4 line or lines of a new State highway *or highway improvement, or*

5 any amendment thereto, has been filed by the department pursuant
6 to this act, any municipal approving authority, before issuing a
7 building permit or approving a subdivision plat with respect to
8 any lot, tract, or parcel of land which abuts or is located wholly or
9 partially within the proposed line *or lines* of a new highway *or*
10 *highway improvement* shall refer the site plan, application for
11 building permit or subdivision plat to the commissioner for review
12 and recommendation as to the effect of the proposed development
13 or improvement upon the safety, efficiency, utility or natural beauty
14 of the proposed new highway *or highway improvement*.

15 A municipal approving authority shall not issue any building
16 permit or approve any subdivision plat without the recommenda-
17 tion of the commissioner until 45 days after such reference shall
18 have elapsed without such recommendation. Within said 45-day
19 period, the commissioner may:

20 (1) Give notice to the municipal approving authority and to the
21 owner of such lot, tract or parcel of land of probable intention to
22 acquire the whole or any part thereof, and thereupon no further
23 action shall be taken by such approving authority for a further
24 period of 120 days following the receipt of said notice; if within
25 such further 120-day period, the department has not acquired,
26 agreed to acquire, or commenced an action to condemn said prop-
27 erty, the municipal approving authority shall be free to act upon
28 upon the pending application in such manner as may be provided
29 by law.

30 (2) Give notice to the municipal approving authority and to the
31 owner of such lot, tract or parcel of land of his recommendation
32 that the permit or approval for which application has been made
33 be granted subject to certain modifications specified in said notice.
34 Within 20 days of receiving such notice the municipal approving
35 authority may, with the consent of the applicant, grant such per-
36 mit or approval in such manner as to incorporate the commission-
37 er's recommended modifications. If no such modified permit or
38 approval is granted within said 20 days, then for a further period
39 of 20 days, commencing either from the expiration of the aforesaid
40 20-day period or from any earlier date upon which either the mu-
41 nicipal approving authority or the applicant shall have notified
42 the commissioner that has recommended modifications will not be
43 accepted, no further action shall be taken upon such application,
44 unless the commissioner shall earlier notify the municipal approv-
45 ing authority and the applicant that he does not intend to initiate
46 any steps toward the acquisition of such lot, tract or parcel of

47 land or any part thereof. But if before the expiration of said sec-
 48 ond 20-day period the commissioner gives notice to the municipal
 49 approving authority and to the owner of such lot, tract or parcel
 50 of land of probable intention to acquire the whole or any part
 51 thereof, no further action on such application shall be taken by
 52 such approving authority for a further period of 120 days follow-
 53 ing receipt of said notice. If within such further 120-day period
 54 the department has not aquired, agreed to acquire or commenced
 55 an action to condemn said property, the municipal approving au-
 56 thority shall be free to act upon the pending application in such
 57 manner as may be provided by law.

58 (3) Give notice to the municipal approving authority and to
 59 the owner of such lot, tract or parcel of land that he finds no objec-
 60 tion to the granting of such permit or approval in the form in
 61 which it has been applied for. Upon receipt of such notice the
 62 municipal approving authority shall be free to act upon the pend-
 63 ing application in such manner as may be provided by law.

64 (b) Nothing in this act shall be construed to prohibit or limit
 65 the authority of any municipal *or county* board, body or agency
 66 from incorporating a proposed line *or lines* of any new State high-
 67 way *or highway improvement* in the master plan or official map of
 68 said municipality *or county* and from taking any action with re-
 69 spect thereto as may be authorized by law.

70 (c) No application for a building permit or subdivision approval
 71 shall be subject to the provisions of this subparagraph with re-
 72 spect to any proposed highway *or highway improvement* location
 73 or amendment thereto filed by the commissioner subsequent to the
 74 date on which such application was submitted to the municipal
 75 approving authority.

1 28. (New section) At least every six years the governing body
 2 of the county shall provide for a general reexamination of its
 3 master plan and development regulations by the county planning
 4 board. The county planning board shall prepare a report on the
 5 findings of that reexamination, and a copy of that report shall be
 6 sent to the planning board secretary and the municipal clerk of
 7 each municipality in the county. The six year period shall com-
 8 mence at the time of the adoption of the last general reexamina-
 9 tion. The first reexamination shall be completed within six years
 10 after the effective date of this act.

11 The reexamination report shall state:

12 a. The major problems and objectives relating to land develop-
 13 ment in the county at the time of the adoption of the last re-
 14 examination, report, if any.

15 b. The extent to which these problems and objectives have been
16 reduced or have increased subsequent to that date.

17 c. The extent to which there have been significant changes in
18 the assumptions, policies and objectives forming the basis for the
19 master plan or development regulations as last revised, with par-
20 ticular regard to the density and distribution of population and
21 land uses, housing conditions, circulation, conservation of natural
22 resources, energy conservation, and changes in State, county and
23 municipal policies and objectives.

24 d. The specific changes recommended for the master plan or
25 development regulations, if any, including underlying objectives,
26 policies and standards, or whether a new plan or regulations should
27 be prepared.

1 29. (New section) a. The county planning board shall annually
2 prepare and submit to the county governing body a Capital Im-
3 provements Program consistent with the master plan. The Capital
4 Improvements Program shall inventory all proposed and recom-
5 mended public improvements within the county, regardless of
6 governmental jurisdiction. The Capital Improvements Program
7 shall be divided into a Long Range Improvements Plan and a Five
8 Year Capital Program and shall be consistent with and incorporate
9 any Transportation Improvement Program which the county may
10 be required to submit to the Department of Transportation for the
11 purpose of complying with the requirements of 23 U. S. C. § 134.
12 or any successor statute having substantially the same effect, with
13 respect to the implementation of a continuing comprehensive
14 transportation planning process.

15 b. The Long Range Improvements Plan shall list all improve-
16 ments required to implement the county master plan.

17 c. The Five Year Capital Program shall list each project on
18 which the county anticipates capital funds will be spent during the
19 upcoming five years, and shall be updated on an annual basis.
20 Projects shall be divided into major categories such as local
21 streets, county highways, State highways, toll roads, freight sys-
22 tems, commuter rail, bus systems, water supply and sewerage. The
23 Five Year Capital Program shall provide a brief description of
24 each project. For each year during the five year period, the antici-
25 pated activities associated with the project shall be described, and
26 the total costs associated with that year's activity listed. In
27 addition, if the project is to be financed by a variety of funding
28 sources, each funding source shall be listed. The Five Year Capital
29 Program may include improvements to public facilities to be pro-
30 vided by private parties.

31 d. After preparing the Capital Improvement Program, the
32 county planning board shall recommend the program to the county
33 governing body for adoption. The county governing body may
34 modify the Capital Improvement Program recommended to it by
35 the county planning board, but any modification shall be approved
36 by affirmative vote of a majority of the full authorized member-
37 ship of the governing body and with the reasons for said modifica-
38 tion recorded in the minutes. The county governing body shall
39 adopt the Capital Improvement Program by ordinance or resolu-
40 tion, as appropriate.

1 30. (New section) a. For existing State highways the official
2 county map shall depict a standard right-of-way sufficient to ac-
3 commodate future improvements which may be required along the
4 highway, including future grade separations. The standard right-
5 of-way for each highway shall be based on a general plan or stan-
6 dard cross-section filed with the county by the Department of
7 Transportation.

8 b. The official county map shall be consistent with any route
9 preservation map filed by the Commissioner of Transportation in
10 accordance with section 9 of P. L. 1968, c. 393 (C. 27:7-66).

11 c. If the county planning board, in the master plan, has deter-
12 mined that additional improvements to a State highway may be
13 required in the future, these improvements, including realignments,
14 bypasses, major widening or grade separations, may be incor-
15 porated into the official map. The county governing body shall
16 notify the Department of Transportation of any projected addi-
17 tional improvements at the time of their inclusion in the official
18 county map.

1 31. (New section) In order to facilitate efficient and coordinated
2 review of subdivision and site plan applications submitted to it,
3 the county planning board may by resolution provide for a regular
4 monthly meeting at which development applications may be re-
5 viewed with all affected agencies including the Department of
6 Environmental Protection and the Department of Transportation.

1 32. (New section) There is appropriated from the General Fund
2 to the Department of Transportation the sum of \$2,000,000.00 to
3 be distributed to the counties for the purpose of assisting the
4 counties and county planning boards in meeting the responsibili-
5 ties created by this act. Each county shall receive a base payment
6 of \$30,000.00. The remainder of the appropriation shall be di-
7 vided among the counties using a formula based equally upon the
8 relative population of each county and the relative land area of
9 each county. Prior to disbursing any funds to a county, the Com-

10 missioner of the Department of Transportation, or his designee,
 11 shall enter into a contractual agreement stating the specific work
 12 tasks for which the allocated funds will be used.

1 33. Section 8 of P. L. 1968, c. 285 (C. 40:27-6.6) is repealed.

1 34. This act shall take effect 90 days after enactment.

STATEMENT

This bill would revise and supplement New Jersey's county planning statutes to provide for a stronger regional planning role for counties. A stronger role for counties is needed to connect and complete the strong municipal and State planning processes established by the "Municipal Land Use Law" and the "State Planning Act." The role of county planning is particularly critical in assuring orderly development of the State's high growth areas.

The bill would give county planning boards a new role in the development approval process. County planning boards would be required to review major developments to ensure that vital regional and State concerns are addressed, while the major substantive reviews would continue to be done by municipal planning boards. Specifically, county planning board would be given the responsibility of reviewing subdivisions and site plans having potential regional impacts. These are defined as including: (1) developments located on a State highway or affecting the State drainage facilities, (2) developments which include more than 250 housing units, (3) developments which contain more than 100,000 square feet of nonresidential floor space and (4) developments located on a county road or affecting county drainage facilities (already covered under existing law). The requirements that a county planning board could impose on a developer would continue to be restrictive to specified issues of regional significance. This list is expanded to include requirements for off-site improvements and dedications for State, as well as county, highways and drainageways. To expedite the development approval process, the county planning board would be required to certify to the municipal planning board, in advance of municipal review, that all county requirements have been met. County certification would be required within 45 days in the case of a project having potential regional impact and within five days in the case of a project not having potential regional impact.

The bill would also strengthen county planning generally through requiring all counties to have planning boards and master plan and specifying in greater detail the contents of the county

master plan. An appropriation of \$2,000,000.00 is provided to the Department of Transportation for a state aid program to counties for the purpose of assisting counties and county planning boards in meeting the additional responsibilities placed upon them by this legislation.

LOCAL PLANNING AND ZONING

Provides stronger regional planning role for counties and appropriates \$2,000,000.



SENATE, No. 2627

STATE OF NEW JERSEY

INTRODUCED OCTOBER 6, 1986

By Senators McMANIMON, HURLEY, GAGLIANO,
RAND and COWAN

Referred to Committee on Transportation and Communications

AN ACT concerning the management of access to State highways,
amending R. S. 27:7-1, R. S. 27:16-1, R. S. 40:67-1, the title and
body of P. L. 1945, c. 83, P. L. 1952, c. 21, P. L. 1975, c. 291, P. L.
1983, c. 283, and repealing sections 4 and 7 of P. L. 1945, c. 83
and section 52 of P. L. 1951, c. 23.

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

1 1. (New section) Sections 1 through 10, inclusive, and sections
2 27 through 30, inclusive, of this act shall be known and may be cited
3 as the "State Highway Access Management Act of 1986."

1 2. (New section) The Legislature finds and declares that:

2 a. The purpose of the State highway system is to serve as a
3 network of principal arterial routes for the safe and efficient move-
4 ment of people and goods in the major travel corridors of the State.

5 b. The existing State highways which comprise the State high-
6 way system were constructed at great public expense and con-
7 stitute irreplaceable public assets.

8 c. The State has a public trust responsibility to manage and
9 maintain effectively each highway within the State highway system
10 to preserve its functional integrity and public purpose for the
11 present and future generations.

12 d. Inappropriate land development activities and unrestricted
13 access to State highways can impair the purpose of the State high-
14 way system and damage the public investment in that system.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.
Matter printed in italics *thus* is new matter.

15 c. Every owner of property which abuts a public road has a right
16 of reasonable access to the general system of streets and highways
17 in the State, but not to a particular means of access. The right of
18 access is subject to regulation for the purpose of protecting the
19 public health, safety and welfare.

20 f. Governmental entities through regulation may not eliminate
21 all access to the general system of streets and highways without
22 providing just compensation.

23 g. The access rights of an owner of property abutting a State
24 highway must be held subordinate to the public's right and interest
25 in a safe and efficient highway.

26 h. It is desirable for the Department of Transportation to
27 establish through regulation a system of access management which
28 will protect the functional integrity of the State highway system
29 and the public investment in that system.

30 i. Improved access management is beneficial for streets and
31 highways of every functional classification, and a statutory plan
32 providing for improved management should enable counties and
33 municipalities to take full advantage of its provisions.

1 3. (New section) a. The Commissioner of Transportation shall,
2 within one year of the effective date of this amendatory and
3 supplementary act, and following a public hearing, adopt as a
4 regulation under the "Administrative Procedure Act," P. L. 1968,
5 c. 410 (C. 52:14B-1 et seq.), a State highway access management
6 code (hereinafter, "access code") providing for the regulation of
7 access to State highways.

8 b. The access code shall establish a general classification system
9 for the State highway system, taking into account the various
10 functions different highways perform and the various environ-
11 ments in which different highways are located. Each State high-
12 way segment shall have its classification identified in the access
13 code.

14 c. For each highway classification identified, the access code
15 shall establish standards for the design and location of driveways
16 and intersecting streets. The access code also shall set forth
17 alternative design standards for each highway classification
18 which, combined with limits on vehicular use, can be applied to
19 lots which were in existence prior to the adoption of the access code
20 and which cannot meet the standards of the access code.

21 d. The access code shall set forth administrative procedures for
22 the issuance of access permits.

23 e. The access code shall contain standards suitable for adoption
24 by counties and municipalities for the management of access to
25 streets and highways under their jurisdiction.

26 f. The commissioner may adopt, as supplements to the access
27 code, site-specific access plans for individual segments of a State
28 highway. Any access plan adopted in accordance with this sub-
29 section shall be developed jointly by the Department of Trans-
30 portation and the municipality in which the highway segment is
31 located. Prior to incorporating a site-specific access plan into the
32 access code, the commissioner shall determine that the access plan
33 conditions have been incorporated into the master plan and
34 development ordinances of the municipality, that the access plan
35 complies with or exceeds the standards established in the access
36 code, and that an appropriate means of access has been identified
37 for every lot currently having frontage on the highway segment.

1 4. (New section) a. Any person seeking to construct or open a
2 driveway or public street entering into a State highway shall first
3 obtain an access permit from the Commissioner of Transportation.

4 b. Every access permit, including street opening permits, in
5 effect on the effective date of this amendatory and supplementary
6 act shall remain valid and effective until revoked or replaced.

7 c. Every State highway intersection with a driveway or public
8 street in existence prior to January 1, 1970 shall be assumed to
9 have been constructed in accordance with an access permit, even
10 if no permit was issued.

11 d. Access permits issued under this amendatory and supple-
12 mentary act may contain whatever terms and conditions the com-
13 missioner finds necessary and convenient for effectuating the
14 purposes of this amendatory and supplementary act, including but
15 not limited to, the condition that a permit shall expire when the use
16 of the property served by the access permit changes or is expanded.

17 e. Any person constructing, maintaining or opening a driveway
18 or public street entering into a State highway, except as authorized
19 by law, is subject to a civil penalty of \$100.00. Each day in which
20 an authorized driveway or street entering into a State highway is
21 open, following written notice from the commissioner that the
22 driveway or public street is not authorized by law, is a separate
23 violation. The commissioner may, in addition to or in conjunction
24 with initiating a civil action for collection of this penalty, initiate an
25 action in the Chancery Division of the Superior Court for injunctive
26 relief.

1 5. (New section) The Commissioner of Transportation may issue
2 a nonconforming lot access permit for a property after finding
3 that: a. the property otherwise would not be eligible for an access
4 permit under the access code because of insufficient frontage or

5 other reason: b. the lot on which the property is located was in
 6 existence prior to adoption of the access code; and c. denial of an
 7 access permit would leave the property without reasonable access
 8 to the general system of streets and highways. Every nonconform-
 9 ing lot access permit shall specify limits on the maximum per-
 10 missible vehicular use of any driveway constructed or operated
 11 under that permit.

1 6. (New section) The Commissioner of Transportation may,
 2 upon written notice and hearing, revoke an access permit after
 3 determining that reasonable alternative access is available for the
 4 property served by the access permit and that the revocation would
 5 be consistent with the purposes of this amendatory and supple-
 6 mentary act.

1 7. (New section) The Commissioner of Transportation may, upon
 2 written notice and hearing, revoke an access permit issued before
 3 the effective date of this amendatory and supplementary act after
 4 determining that the access granted by the access permit is non-
 5 conforming under the access code and that the use of property
 6 served by the access permit has changed or has been expanded
 7 after the adoption of the access code.

1 8. (New section) After adoption of the access code, as provided
 2 by section 3 of this amendatory and supplementary act, no property
 3 abutting a State highway shall be subdivided in a manner which
 4 would create additional lots abutting that highway unless all the
 5 abutting lots so created are in accord with the standards estab-
 6 lished in the access code.

1 9. (New section) The Commissioner of Transportation and every
 2 county and municipality may build new roads or acquire access
 3 easements to provide alternative access to existing developed lots
 4 which have no other means of access except to a State highway.

1 10. (New section) In addition to any powers granted to him
 2 under this amendatory and supplementary act or any other pro-
 3 vision of law, the Commissioner of Transportation may acquire,
 4 by purchase or condemnation, any right of access to any highway
 5 upon a determination that the public health, safety and welfare
 6 require it.

1 11. R. S. 27:7-1 is amended to read as follows:

2 27:7-1. As used in this subtitle:

3 "*Access code*" means the State highway access management code
 4 adopted by the commissioner under section 3 of the "State High-
 5 way Access Management Act of 1986," P. L. 19 , c. (C.
 6) (now pending before the Legislature as this bill).

7 "Access permit" means a permit issued by the commissioner
8 pursuant to sections 4 and 5 of P. L. _____, c. _____ (C. _____)
9 (now pending before the Legislature as this bill) for the construc-
10 tion and maintenance of a driveway or public street connecting to
11 a State highway.

12 "Authority" means a governing body or public official charged
13 with the care of a highway.

14 "Betterment" means construction, subsequent to the original im-
15 provement, of any one or more of the component factors properly
16 belonging to the original improvement, which may have been
17 omitted in the original improvement of a road, or which adds to
18 the value thereof after improvement.

19 "Commissioner" means the [State highway commissioner]
20 Commissioner of Transportation.

21 "County road" means a road taken over, controlled or maintained
22 by the county.

23 "Department" means the [State highway department] *Depart-*
24 *ment of Transportation*, acting through the [State highway] com-
25 missioner or such officials as may be by the commissioner desig-
26 nated.

27 "Driveway" means a private roadway providing access to a
28 public street.

29 "Engineer" means the [State highway engineer] *Assistant Com-*
30 *missioner for Engineering and Operations*, or the [assistant]
31 *deputy* State highway engineer, when designated.

32 "Extraordinary repairs" means extensive or entire replacement,
33 with the same or a different kind of material, of one or more of the
34 component factors of the original improvement of a road, which
35 may become necessary because of wear, disintegration or other
36 failure.

37 "Governing body" means the mayor and council, town council,
38 village trustees, commission or committee of any municipality, and
39 the board of chosen freeholders of any county.

40 "Highway" means a public right of way, whether open or im-
41 proved or not, including all existing factors of improvements.

42 "Improvement" means the original work on a road or right of
43 way which converts it into a road which shall, with reasonable
44 repairs thereto, at all seasons of the year, be firm, smooth and
45 convenient for travel. "Improvement" shall consist of location,
46 grading, surface, and subsurface drainage provisions, including
47 curbs, gutters, and catch basins, foundations, shoulders and slopes,
48 wearing surface, bridges, culverts, retaining walls, intersections,

49 private entrances, guard rails, shade trees, illumination, guide-
50 posts and signs, ornamentation and monumenting. "Improvement"
51 also may consist of alterations to driveways and local streets,
52 acquisition of rights-of-way, construction of service roads and
53 other actions designed to enhance the functional integrity of a high-
54 way. All of these component factors need not be included in an
55 original improvement.

56 "Jurisdiction" means the civil division of the State, over the
57 roads of which any authority may have charge.

58 "Maintenance" means continuous work required to hold an im-
59 proved road against deterioration due to wear and tear and thus
60 to preserve the general character of the original improvement
61 without alteration in any of its component factors.

62 "Public utility" means and includes every individual, copartner-
63 ship, association, corporation or joint stock company, their lessees,
64 trustees, or receivers appointed by any court, owning, operating,
65 managing or controlling within the State of New Jersey a steam
66 railroad, street railway, traction railway, canal, express, subway,
67 pipe line, gas, electric, light, heat, power, water, oil, sewer, tele-
68 phone, telegraph system, plant or equipment for public use under
69 privileges granted by the State or by any political subdivision
70 thereof.

71 "Reconstruction" means the rebuilding with the same or different
72 material of an existing improved road, involving alterations or
73 renewal of practically all the component factors of which the
74 original improvement consisted.

75 "Repairs" means limited or minor replacements in one or more
76 of the component factors of the original improvement of a road
77 which may be required by reason of storm or other cause in order
78 that there may be restored a condition requiring only maintenance
79 to preserve the general character of the original improvement of a
80 road.

81 "Resurfacing" means work done on an improved road involving
82 a new or partially new pavement, with or without change in width,
83 but without change in grade or alignment.

84 "Road" means a highway other than a street, boulevard or
85 parkway.

86 "Route" means a highway or set of highways including roads,
87 streets, boulevards, parkways, bridges and culverts needed to pro-
88 vide direct communication between designated points.

89 "State highway" means a road taken over and maintained by the
90 State.

91 "State highway system" means all highways included in the
 92 routes set forth in this subtitle, or added thereto, including all
 93 bridges, culverts, and all necessary gutters and guard rails along
 94 the route thereof.

95 "Street" means a highway in a thickly settled district where, in
 96 a distance of one thousand three hundred and twenty feet on the
 97 center line of the highway, there are twenty or more houses within
 98 one hundred feet of the center line; or any highway which the
 99 governing body in charge thereof and the commissioner may declare
 100 a street, and all highways within incorporated municipalities of
 101 over twelve thousand population; and includes boulevards, park-
 102 ways, speedways, being highways maintained mainly for purposes
 103 of scenic beauty or pleasure, or of which the public use is restricted.

104 "Take over" means the action by the department in assuming the
 105 control and maintenance of a part of the State highway system.

106 "Work" means and includes the:

107 a. Acquisition, by lease, gift, purchase, demise or condemnation,
 108 of lands for any purpose connected with highways or adjoining
 109 sidewalks, for temporary or permanent use;

110 b. Laying out, opening, construction, improvement, repair and
 111 maintenance of highways and removal of obstructions and en-
 112 croachments from adjoining sidewalks;

113 c. Building, repair and operation of bridges;

114 d. Building of culverts, walls and drains;

115 e. Planting of trees;

116 f. Protection of slopes;

117 g. Placing and repair of road signs and monuments;

118 h. Opening, maintenance and restoration of detours;

119 i. Elimination of grade crossings;

120 j. Lighting of highways;

121 k. Removal of obstructions to traffic and to the view;

122 l. Surveying and preparation of drawings and papers;

123 m. Counting of traffic;

124 n. Letting of contracts;

125 o. Purchase of equipment, materials and supplies;

126 p. Hiring of labor;

127 q. And all other things and services necessary or convenient for
 128 the performance of the duties imposed by this title.

1 12. Section 1 of P. L. 1983, c. 283 (C. 27:7-44.9) is amended to
 2 read as follows:

3 1. a. In addition to other powers conferred upon the Commis-
 4 sioner of Transportation by any other law and not in limitation

5 thereof, the commissioner, in connection with the construction,
 6 reconstruction, maintenance or operation of any highway project,
 7 may make reasonable regulations for the installation, construction,
 8 maintenance, repair, renewal, relocation and removal of pipes,
 9 mains, conduits, cables, wires, towers, poles and other equipment
 10 and appliances, herein called "facilities," of any public utility as
 11 defined in R. S. 48:2-13, and of any cable television company as
 12 defined in the "Cable Television Act," P. L. 1972, c. 186 (C. 48:5A-1
 13 et seq.), in, on, along, over or under any highway project. When-
 14 ever the commissioner determines that it is necessary that facil-
 15 ities which now are, or hereafter may be, located in, on, along,
 16 over or under any highway project shall be relocated in the
 17 project or should be removed from the project, the public utility
 18 or cable television company owning or operating the facilities
 19 shall relocate or remove the same in accordance with the order of
 20 the commissioner. The cost and expenses of such relocation or
 21 removal, including the cost of installing the facilities in a new
 22 location, or new locations, and the cost of any lands, or any rights
 23 or interests in lands, and any other rights acquired to accomplish
 24 the relocation or removal, shall be ascertained and paid by the
 25 commissioner as a part of the cost of the project. In the case of the
 26 relocation or removal of facilities, as aforesaid, the public utility
 27 or cable television company owning or operating the same, its
 28 successors or assigns may maintain and operate the facilities,
 29 with the necessary appurtenances, in the new location or new loca-
 30 tions, for as long a period, and upon the same terms and conditions,
 31 as it had the right to maintain and operate the facilities in the
 32 former location or locations.

33 *b.* As used in this act, "highway project," in addition to its
 34 ordinary meaning, means one which is administered and con-
 35 tracted for by the commissioner.

36 *c.* The powers conferred upon the commissioner by this section
 37 also are conferred upon the governing body of any county having
 38 under its jurisdiction a limited access highway in the meaning of
 39 section 1 of P. L. 1945, c. 83 (C. 27:7.1-1) with respect to the con-
 40 struction, reconstruction, maintenance or operation of any highway
 41 project on that limited access highway.

1 13. The title of P. L. 1945, c. 83, as said title was amended by
 2 P. L. 1948, c. 461, is amended to read as follows:

3 An act providing for the establishment, construction and mainte-
 4 nance of [freeways and parkways] *limited access highways*.

1 14. Section 1 of P. L. 1945, c. 83 (C. 27:7A-1) is amended to
 2 read as follows:

3 1. a. As used in this act, "freeway";

4 "Limited access highway" [shall mean] means a [State] high-
5 way especially designed for through [mixed] traffic over which
6 abutters have no easement or right of light, air or direct access,
7 by reason of the fact that their property abuts upon such way,
8 with infrequent public entrances and exits and with or without
9 service roads];

10 ["Parkway" shall mean a State highway especially designed for
11 through passenger traffic over which abutters have no easement or
12 right of light, air or direct access, by reason of the fact that their
13 property abuts upon such way, with special treatment in land-
14 scaping and planting between roadways and along its borders,
15 which borders may also include service roads open to mixed traffic,
16 recreational facilities such as pedestrian, bicycle and bridle paths,
17 overlooks and picnic areas, and other necessary noncommercial
18 facilities.]

19 "Commissioner" means the Commissioner of Transportation.

20 b. The definitions in this section do not restrict the ability of
21 the commissioner to provide for the design of any State highway or
22 element thereof, according to whatever design standards the com-
23 missioner determines to be appropriate.

24 c. The term "freeway" or "parkway," as used in any law which
25 went into effect before the effective date of P. L., c. . . .
26 (C.) (now pending before the Legislature as this bill)
27 which designates any State highway as a "freeway" or "parkway"
28 shall be construed to mean a "limited access highway" as defined
29 in subsection a. of this section.

1 15. Section 2 of P. L. 1945, c. 83 (C. 27:7A-2) is amended to read
2 as follows:

3 2. [Upon recommendation of the State Highway Commissioner
4 and upon subsequent designation by the Legislature of any pro-
5 jected State Highway, or portion thereof, as a freeway or as a
6 parkway, the State Highway Commissioner] a. Except as other-
7 wise determined by the commissioner based on the public interest,
8 the commissioner shall construct every State highway, or portion
9 thereof, located on new alignment as a limited access highway.

10 b. When the commissioner or the governing body of a county
11 constructs a limited access highway, the commissioner or govern-
12 ing body shall have authority to arrange with landowners, at the
13 time of purchase of the rights-of-way for such highway or portion
14 thereof, for the control of public or private access or for complete
15 exclusion of direct access of abutters to the [State] highway

16 right-of-way. Such arrangements shall be made part of the pur-
 17 chase contract. In the event that no agreement can be reached
 18 between the parties, the commissioner or the governing body of the
 19 county shall have the power to acquire said rights of access by
 20 condemnation.

21 *c. No right of access exists to a highway constructed on new*
 22 *alignment unless the construction of the highway results in the*
 23 *creation of a remainder parcel of property which has no access to a*
 24 *public street. Arrangements made with landowners for exclusion*
 25 *of direct access by the commissioner, or by the governing body of*
 26 *a county under subsection b. of this section, shall not be subject to*
 27 *compensation unless it is determined that the construction of the*
 28 *highway has had the effect of eliminating all reasonable access*
 29 *to the system of streets and highways to a remainder parcel of*
 30 *land.*

1 16. Section 3 of P. L. 1945, c. 83 (C. 27:7A-3) is amended to read
 2 as follows:

3 3. a. Property needed for any [freeway] limited access highway
 4 is declared to be all those lands or interests therein required for
 5 the traveled way together with those lands or interests therein
 6 necessary or desirable for service, maintenance and protection of
 7 the present and future use of the highway, [not to exceed a total
 8 average width of right-of-way of three hundred feet, except where
 9 greater width is needed] including those lands or interests therein
 10 necessary or desirable in connection with grade separations, con-
 11 necting roadways at an intersection with another main highway,
 12 land between roadways, occasional parking areas, treatment of
 13 borders and landscape areas, recreational facilities, parallel service
 14 roads and railroad crossing eliminations or relocations, and for
 15 those areas referred to in section [eight] 8 of this act. [The State
 16 Highway Commissioner shall have the authority to control the
 17 number of access roads and their location and design.]

18 b. Except as provided in subsection c. of this section, the com-
 19 missioner, with respect to limited access highways under his juris-
 20 diction, and the governing body of a county, with respect to limited
 21 access highways under its jurisdiction, shall permit access only
 22 from infrequently spaced intersections with public streets and
 23 highways. Intersections shall be especially designed to minimize
 24 interference with through traffic and shall be located in a manner
 25 which facilitates regional access to the highway.

26 c. The commissioner, or the governing body of the county, as
 27 appropriate, may allow construction or continuation of driveway

28 access to a remote or isolated facility owned or operated by a
 29 governmental agency or authority or by a public utility or to an
 30 agricultural building or land, if the commissioner or governing
 31 body determines that the use of the driveway would be infrequent
 32 and would not pose a hazard or inconvenience to the public and
 33 that the creation or continuation of the driveway would not be in
 34 conflict with the purposes of P. L. , c. . . . (C.)
 35 (now pending before the Legislature as this bill). No driveway
 36 access shall be provided to a facility which consists of an establish-
 37 ment providing employment to more than five persons.

1 17. Section 1 of P. L. 1952, c. 21 (C. 27:7A-4.1) is amended to
 2 read as follows:

3 1. In connection with the acquisition of property or property
 4 rights for any **[freeway or parkway] limited access highway** or
 5 portion thereof, the **[State Highway Commissioner] commis-**
 6 **sioner, with respect to limited access highways under his jurisdic-**
 7 **tion, and the governing body of a county, with respect to limited**
 8 **access highways under its jurisdiction, may, in his or its discretion,**
 9 acquire by gift, devise, purchase or condemnation, an entire lot,
 10 block or tract of land, if, by so doing, the interests of the public
 11 will be best served even though said entire lot, block or tract is not
 12 needed for the right-of-way proper **[but only if the portion outside**
 13 **the normal right-of-way is landlocked or is so situated that the cost**
 14 **of acquisition to the State will be practically equivalent to the**
 15 **total value of the whole parcel of land; provided, however, that the**
 16 **State Highway Commissioner shall not have the power to acquire**
 17 **by the exercise of the right of eminent domain for any of the**
 18 **purposes of this act any property or property rights owned or**
 19 **used by any public utility as defined in section 48:2-13 of the**
 20 **Revised Statutes].**

1 18. Section 5 of P. L. 1945, c. 83 (C. 27:7A-5) is amended to
 2 read as follows:

3 5. **[Upon recommendation of the State Highway Commissioner**
 4 **and upon subsequent designation by the Legislature of any existing**
 5 **State highway, or portion thereof, as a freeway or parkway, the**
 6 **State Highway Commissioner] The commissioner may, by order**
 7 **and after public hearing, designate any existing State highway, or**
 8 **portion thereof, as a limited access highway and thereafter shall**
 9 have the authority to acquire, either by purchase or condemnation,
 10 such property rights, easements and access rights as may be
 11 necessary to make such existing highway or portion thereof a
 12 **[freeway or parkway as defined in this act] limited access high-**
 13 **way.**

1 19. Section 6 of P. L. 1945, c. 83 (C. 27:7A-6) is amended to
2 read as follows:

3 6. The **[State Highway Commissioner]** *commissioner*, with
4 *respect to limited access highways under his jurisdiction, and the*
5 *governing body of a county, with respect to limited access high-*
6 *ways under its jurisdiction, shall have the authority to restrict the*
7 *use of roadways in [parkways] limited access highways to passen-*
8 *ger motor vehicles, to prohibit the use of any roadway in limited*
9 *access highways by certain classes of vehicles or by pedestrians,*
10 *bicycles or other nonmotorized traffic or by any person operating a*
11 *motor-driven cycle and to make such other regulations as may be*
12 *proper or necessary to carry out the provisions of this act[;*
13 *provided, however, if any highway or any portion or portions*
14 *thereof over which autobuses lawfully operate is designated a*
15 *parkway, or a part of a parkway, no such restriction or regulation*
16 *shall prevent the use by autobuses, in accordance with other laws*
17 *applicable thereto, of such portion or portions of such parkway*
18 *as include such highway or portion or portions thereof, or of such*
19 *portion or portions of such parkway as shall be necessary to pro-*
20 *vide ingress and egress for such autobuses in connection with such*
21 *use].*

1 20. Section 8 of P. L. 1945, c. 83 (C. 27:7A-8) is amended to
2 read as follows:

3 8. No commercial enterprises or activities shall be conducted
4 by the **[State Highway Commissioner]** *commissioner* or any other
5 agency of the State within or on the property acquired for or in con-
6 nection with a **[freeway or parkway]** *limited access highway*, as
7 defined in this act, nor shall such commercial enterprises or
8 activities be authorized except as hereinafter provided but nothing
9 herein shall prevent the operation, in the manner provided by law,
10 of autobuses within or on the property used for or designated as a
11 **[freeway]** *limited access highway* as defined in this act[, or the
12 operation, in the manner provided by law, of autobuses within or
13 on the property used for or designated as a parkway as defined in
14 this act to the extent provided for in section six of this act].

15 The **[State Highway Commissioner]** *commissioner*, in order to
16 permit the establishment of adequate fuel or other service facilities
17 by private owners or their lessees, for the users of a **[freeway or**
18 **parkway]** *limited access highway*, may acquire suitable areas for
19 such facilities even though such areas are not needed for the
20 right-of-way proper and, in the manner hereinafter provided,
21 shall sell or lease as lessor such portions thereof as in his judgment
22 the public interest shall then require. Such sales and leases shall
23 be made under the following terms and conditions:

24 a. Each purchaser *and lessee* shall be a person who has been
25 continuously a resident of this State for a period of at least two
26 years immediately preceding such sale.

27 b. Subject to the conditions and restrictions imposed by this
28 act, the premises shall be sold *or leased* at public sale to the highest
29 responsible bidder.

30 c. The commissioner shall have the right to incorporate in any
31 deed conveying premises so sold covenants running with the land
32 requiring the purchasers, their grantees, and successors (1) to
33 erect and maintain any buildings thereon in conformity with
34 specified exterior design, (2) to provide services reasonably re-
35 quired by the users of the [freeway or parkway] *limited access*
36 *highway* subject to usual sanitary and health standards, and (3)
37 to conduct no business other than that for which the property was
38 originally sold, without the written consent of the commissioner.

39 d. Such premises shall not be sold *or leased* to a person who
40 owns, directly or indirectly, or holds under lease any premises in
41 the same service area on the same side of a [freeway or parkway]
42 *limited access highway* purchased *or leased* for a similar purpose.

43 e. In acquiring areas for the purposes aforesaid in subdividing
44 such areas into smaller premises for sale to the purchasers thereof,
45 the commissioner shall provide a sufficient number of separate
46 premises to encourage free and open competition among all
47 suppliers of each service involved who desire to purchase *or lease*
48 premises for the furnishing of such services along each [freeway
49 and parkway] *limited access highway*, subject to any restrictions
50 hereinabove stated.

51 f. The commissioner shall provide access roads from the [freeway
52 or parkway] *limited access highway* to the service areas, the
53 location of which shall be indicated to users of the [freeway or
54 parkway] *limited access highway* by appropriate signs, the style,
55 size, and specifications of which shall be determined by the [State
56 Highway Commissioner] *commissioner*.

57 g. Each purchaser *or lessee* of such premises may arrange to
58 have the services for which such premises were sold *or leased* per-
59 formed through [lessees] *sublessees* or other third persons pro-
60 vided that such purchasers *or lessees* shall remain liable for failure
61 to comply with the covenants contained in the deed affecting such
62 premises.

63 For the purpose of this section, "person" shall include any in-
64 dividual and those related to him by blood, marriage or adoption,
65 and partnerships and corporations and all individuals affiliated
66 therewith through ownership or control, directly or indirectly, of
67 more than fifty per centum (50%) of any outstanding corporate
68 stock.

1 21. Section 9 of P. L. 1945, c. 83 (C. 27:7A-9) is amended to
2 read as follows:

3 9. The powers contained in this act are in addition to all the
4 powers that the **[State Highway Commissioner]** *commissioner*
5 has at the time this act becomes effective *and in addition to the*
6 *powers granted to him by the "State Highway Access Management*
7 *Act of 1986," P. L., c. . . . (C.) (now pending*
8 *before the Legislature as this bill)*, and any limitation herein con-
9 tained shall be interpreted as applying only to **[freeways and**
10 **parkways]** *limited access highways* created under this act.

1 22. R. S. 27:16-1 is amended to read as follows:

2 27:16-1. **[Every board of chosen freeholders]** *The governing*
3 *body of any county may:*

4 a. Lay out and open such free public roads in the county as it
5 may deem useful for the accommodation of travel between two or
6 more communities;

7 b. Acquire roads and highways, or portions thereof, within the
8 limits of the county;

9 c. Widen, alter, straighten, and change the grade or location
10 of any road or highway under its control, or any part thereof;

11 d. Improve, pave, repave, surface or resurface, repair and
12 maintain any road or highway under its control, either in whole
13 or in part;

14 e. Protect any road or highway under its control, or any part
15 thereof, by the construction of sewers, drains, culverts, receiving
16 basins, jetties, bulkheads, seawalls, or other means and devices,
17 either in or on the road or highway or on land adjacent thereto;

18 f. Light, beautify and ornament any road or highway under its
19 control, or any part thereof and, in any county where a county
20 park commission does not exist, construct and maintain along any
21 road or highway where it touches upon a navigable stream, a
22 public park for recreation purposes, as well as public docks and
23 wharves, but the cost of the park and docks and wharves shall not
24 exceed one hundred thousand dollars;

25 g. Vacate any road or highway under its control, or any portion
26 thereof, that may be unnecessary for public travel;

27 h. Lay out and open or acquire limited access highways as de-
28 fined in section 1 of P. L. 1945, c. 83 (C. 27:7A-1) and subject to
29 the terms of that law; and

30 i. For roads and highways under its control adopt an access
31 management code which satisfies the standards embodied in the
32 access code adopted by the Commissioner of Transportation under
33 section 3 of the "State Highway Access Managment Act of 1986,"
34 P. L., c. . . . (C.) (now pending before the
35 Legislature as this bill).

36 Where any building or other structure has or shall have been
 37 erected or constructed upon any portion of a road or highway under
 38 its control, such portion of the road or highway may be vacated or
 39 the continuance of such building or structure in its location au-
 40 thorized for such period as may be deemed advisable, if the portion
 41 of such road or highway so occupied be declared by the board to be
 42 unnecessary for public travel.

1 23. Section 26 of P. L. 1975, c. 291 (C. 40:55D-35) is amended
 2 to read as follows:

3 26. Building lot to abut street. No permit for the erection of
 4 any building or structure shall be issued unless the lot abuts a
 5 street giving access to such proposed building or structure. Such
 6 street shall have been duly placed on the official map or shall be
 7 (1) an existing State, county or municipal street or highway, or (2)
 8 a street shown upon a plat approved by the planning board, or
 9 (3) a street on a plat duly filed in the office of the county recording
 10 officer prior to the passage of an ordinance under this act or any
 11 prior law which required prior approval of plats by the governing
 12 body or other authorized body. Before any such permit shall be
 13 issued, (1) such street shall have been certified to be suitably im-
 14 proved to the satisfaction of the governing body, or such suitable
 15 improvement shall have been assured by means of a performance
 16 guarantee, in accordance with standards and specifications for
 17 road improvements approved by the governing body, as adequate
 18 in respect to the public health, safety and general welfare of the
 19 special circumstance of the particular street and (2) it shall have
 20 been established that the proposed access conforms with the
 21 standards of the State highway access management code adopted
 22 by the Commissioner of Transportation under section 3 of the
 23 "State Highway Access Management Act of 1986," P. L. ,
 24 c. (C.) (now pending before the Legislature as this
 25 bill) in the case of a State highway, with the standards of any
 26 access management code adopted by the county under R. S. 27:16-1
 27 in the case of a county road or highway, and with the standards
 28 of any municipal access management code adopted under R. S.
 29 40:67-1 in the case of a municipal street or highway.

1 24. Section 29 of P. L. 1975, c. 291 (C. 40:55D-38) is amended
 2 to read as follows:

3 29. Contents of ordinance. An ordinance requiring approval by
 4 the planning board of either subdivisions or site plans, or both,
 5 shall include the following:

6 a. Provisions, not inconsistent with other provisions of this act,
 7 for submission and processing of applications for development.

8 including standards for preliminary and final approval and pro-
9 visions for processing of final approval by stages or sections of
10 development:

11 h. Provisions ensuring:

12 (1) Consistency of the layout or arrangement of the subdivision
13 or land development with the requirements of the zoning ordinance:

14 (2) Streets in the subdivision or land development of sufficient
15 width and suitable grade and suitably located to accommodate
16 prospective traffic and to provide access for firefighting and emer-
17 gency equipment to buildings and coordinated so as to compose a
18 convenient system consistent with the official map, if any, and the
19 circulation element of the master plan, if any, and so oriented
20 as to permit, consistent with the reasonable utilization of land, the
21 buildings constructed thereon to maximize solar gain: provided
22 that no street of a width greater than 50 feet within the right-of-
23 way lines shall be required unless said street constitutes an
24 extension of an existing street of the greater width, or already
25 has been shown on the master plan at the greater width, or already
26 has been shown in greater width on the official map:

27 (3) Adequate water supply, drainage, shade trees, sewerage
28 facilities and other utilities necessary for essential services to
29 residents and occupants;

30 (4) Suitable size, shape and location for any area reserved for
31 public use pursuant to section 32 of this act;

32 (5) Reservation pursuant to section 31 of this act of any open
33 space to be set aside for use and benefit of the residents of planned
34 development, resulting from the application of standards of density
35 or intensity of land use, contained in the zoning ordinance, pursuant
36 to subsection 52 c. of this act:

37 (6) Regulation of land designated as subject to flooding, pur-
38 suant to subsection 52 e., to avoid danger to life or property;

39 (7) Protection and conservation of soil from erosion by wind or
40 water or from excavation or grading; [and]

41 (8) Conformity with standards promulgated by the Commis-
42 sioner of Transportation, pursuant to the "Air Safety and
43 [Hazardous] Hazardous Zoning Act of 1983," P. L. 1983, c. 260
44 (C. 6:1-80 et seq.), for any airport hazard areas delineated under
45 that act:

46 (9) *Conformity with the State highway access management code*
47 *adopted by the Commissioner of Transportation under section 3 of*
48 *the "State Highway Access Management Act of 1986," P. L. . . .*
49 *c. (C. . . .) (now pending before the Legislature as this*
bill), with respect to any State highways within the municipality;

50 (10) *Conformity with any access management code adopted by*
 51 *the county under R. S. 27:16-1, with respect to any county roads*
 52 *within the municipality; and*

53 (11) *Conformity with any municipal access management code*
 54 *adopted under R. S. 40:67-1, with respect to municipal streets;*

55 c. Provisions governing the standards for grading, improve-
 56 ment and construction of streets or drives and for any required
 57 walkways, curbs, gutters, streetlights, shade trees, fire hydrants
 58 and water, and drainage and sewerage facilities and other improve-
 59 ments as shall be found necessary, and provisions ensuring that
 60 such facilities shall be completed either prior to or subsequent to
 61 final approval of the subdivision or site plan by allowing the
 62 posting of performance bonds by the developer;

63 d. Provisions ensuring that when a municipal zoning ordinance
 64 is in effect, a subdivision or site plan shall conform to the applicable
 65 provisions of the zoning ordinance, and where there is no zoning
 66 ordinance, appropriate standards shall be specified in an ordinance.
 67 pursuant to this article; and

68 e. Provisions ensuring performance in substantial accordance
 69 with the final development plan; provided that the planning board
 70 may permit a deviation from the final plan, if caused by change of
 71 conditions beyond the control of the developer since the date of
 72 final approval, and the deviation would not substantially alter the
 73 character of the development or substantially impair the intent and
 74 purpose of the master plan and zoning ordinance.

1 25. Section 49 of P. L. 1975, c. 291 (C. 40:55D-62) is amended to
 2 read as follows:

3 49. Power to zone. a. The governing body may adopt or amend
 4 a zoning ordinance relating to the nature and extent of the uses of
 5 land and of buildings and structures thereon. Such ordinance shall
 6 be adopted after the planning board has adopted the land use plan
 7 element and the housing plan element of a master plan, and all of
 8 the provisions of such zoning ordinance or any amendment or re-
 9 vision thereto shall either be substantially consistent with the land
 10 use plan element and the housing plan element of the master plan
 11 or designed to effectuate such plan elements; provided that the
 12 governing body may adopt a zoning ordinance or amendment or
 13 revision thereto which in whole or part is inconsistent with or not
 14 designed to effectuate the land use plan element and the housing
 15 plan element, but only by affirmative vote of a majority of the
 16 full authorized membership of the governing body, with the rea-
 17 sons of the governing body for so acting set forth in a resolution
 18 and recorded in its minutes when adopting such a zoning ordi-

19 nance; and provided further that, notwithstanding anything afore-
 20 said, the governing body may adopt an interim zoning ordinance
 21 pursuant to subsection b. of section [64] 77 of P. L. 1975, c. 291
 22 [(C. 40:55D-77)] (C. 40:55D-90).

23 The zoning ordinance shall be drawn with reasonable considera-
 24 tion to the character of each district and its peculiar suitability
 25 for particular uses and to encourage the most appropriate use of
 26 land. The regulations in the zoning ordinance shall be uniform
 27 throughout each district for each class or kind of buildings or
 28 other structure or uses of land, including planned unit develop-
 29 ment, planned unit residential development and residential cluster,
 30 but the regulations in one district may differ from those in other
 31 districts.

32 b. No zoning ordinance and no amendment or revision to any
 33 zoning ordinance shall be submitted to or adopted by initiative or
 34 referendum.

35 c. The zoning ordinance shall provide for the regulation of
 36 any airport hazard areas delineated under the "Air Safety and
 37 Hazardous Zoning Act of 1983," P. L. 1983, c. 260 (C. 6:1-80 et
 38 seq.), in conformity with standards promulgated by the Com-
 39 missioner of Transportation.

40 d. *The zoning ordinance shall provide for the regulation of*
 41 *land adjacent to State highways in conformity with the State high-*
 42 *way access management code adopted by the Commissioner of*
 43 *Transportation under section 3 of the "State Highway Access*
 44 *Management Act of 1986," P. L. , c. (C.) (now*
 45 *pending before the Legislature as this bill), for the regulation of*
 46 *land adjacent to county roads and highways in conformity with*
 47 *any access management code adopted by the county under R. S.*
 48 *27:26-1 and for the regulation of land adjacent to municipal streets*
 49 *and highways in conformity with any municipal access manage-*
 50 *ment code adopted under R. S. 40:67-1.*

1 26. R. S. 40:67-1 is amended to read as follows:

2 40:67-1. The governing body of every municipality may make,
 3 amend, repeal and enforce ordinances to:

4 a. Ascertain and establish the boundaries of all streets, high-
 5 ways, lanes, alleys and public places in the municipalities, and pre-
 6 vent and remove all encroachments, obstructions and encum-
 7 brances in, over or upon the same or any part thereof:

8 b. Establish, change the grade of or vacate any public street,
 9 highway, lane or alley, or any part thereof, including the vacation
 10 of any portion of any public street, highway, lane or alley mea-
 11 sured from a horizontal plane a specified distance above or below

12 its surface and continuing upward or downward, as the case may
13 be; vacate any street, highway, lane, alley, square, place or park,
14 or any part thereof, dedicated to public use but not accepted by
15 the municipality, whether or not the same, or any part, has been
16 actually opened or improved; accept any street, highway, lane,
17 alley, square, beach, park or other place, or any part thereof, dedi-
18 cated to public use, and thereafter, improve and maintain the
19 same. The word "vacate" shall be construed for all purposes of
20 this article to include the release of all public rights[.] resulting
21 from any dedication of lands not accepted by the municipality.
22 Any vacation ordinance adopted pursuant to this subsection shall
23 expressly reserve and except from vacation all rights and privi-
24 leges then possessed by public utilities, as defined in R. S. 48:2-13,
25 and by any cable television company, as defined in the "Cable Tele-
26 vision Act," P. L. 1972, c. 186[.] (C. 48:5A-1 et seq.), to maintain,
27 repair and replace their existing facilities in, adjacent to, over or
28 under the street, highway, lane, alley, square, place or park, or
29 any part thereof, to be vacated;

30 c. Prescribe the time, manner in which and terms upon which
31 persons shall exercise any privilege granted to them in the use
32 of any street, highway, alley or public place, or in digging up the
33 same for laying down rails, pipes, conduits, or for any other pur-
34 pose whatever;

35 d. Prevent or regulate the erection and construction of any
36 stoop, step, platform, window, cellar door, area, descent into a
37 cellar or basement, bridge, sign, or any post, erection or projec-
38 tion in, over or upon any street or highway, and for the removal
39 of the same at the expense of the owner or occupant of the prem-
40 ises where already erected;

41 e. Cause the owners of real estate abutting on any street or
42 highway to erect fences, walls or other safeguards for the pro-
43 tection of persons from injury from unsafe places on said real
44 estate adjacent to or near such street or highway; and provide
45 for the erection of the same by the municipality at the expense
46 of the owner or owners of such real estate;

47 f. Regulate or prohibit the erection and maintenance of fences
48 or any other form of [inclosures] *inclosure* fronting on any mu-
49 nicipal street, highway, lane, alley or public place;

50 g. Prevent persons from depositing, throwing, spilling or dump-
51 ing dirt, ashes or other material upon any street or highway or
52 portion thereof, or causing or permitting the same to be done;

53 h. Regulate or prohibit the placing of banners or flags[.] in,
54 over or upon any street or avenue;

55 i. Cause the territory within the municipality to be accurately
 56 surveyed and a map or maps to be prepared showing the location
 57 and width of each street, highway, lane, alley and public place, and
 58 a plan for the systematic opening of roads and streets in the
 59 future. Such map or maps may be changed from time to time;

60 j. Provide for the adoption and changing of a system of num-
 61 bering all buildings and lots of land in such municipality, and the
 62 display upon each building of the number assigned to it, either
 63 at the expense of the owner thereof or of the municipality:

64 k. Provide for the naming and changing the names of streets
 65 and highways, and the erection thereon of signs, showing the
 66 names thereof, and [guide posts] *guideposts* for travelers:

67 l. Regulate processions and parades through the streets and
 68 highways of the municipality; and

69 m. *For streets and highways under its control adopt an access*
 70 *management code which satisfies the standards embodied in the*
 71 *access code adopted by the Commissioner of Transportation under*
 72 *section 3 of the "State Highway Access Management Act of 1986,"*
 73 *P. L. , c (C.) (now pending before the Legisla-*
 74 *ture as this bill).*

1 27. (New section) If any clause, sentence, paragraph, section or
 2 part of this act shall be adjudged by any court of competent juris-
 3 diction to be invalid, the judgment shall not affect, impair or
 4 invalidate the remainder thereof, but shall be confined in its opera-
 5 tion to the clause, sentence, paragraph, section or part thereof
 6 directly involved in the controversy in which the judgment shall
 7 have been rendered.

1 28. (New section) This act shall be interpreted liberally to effect
 2 the purposes set forth herein.

1 29. The following are repealed: Sections 4 and 7 of P. L. 1945,
 2 c. 83 (C. 27:7A-4 and 27:7A-7) and section 52 of P. L. 1951, c. 23
 3 (C. 39:4-94.1).

1 30. This act shall take effect on the 90th day after enactment.

STATEMENT

The "State Highway Access Management Act of 1986" would provide for a comprehensive statutory and regulatory framework for managing access to State highways. The Department of Transportation would be required, within a year of enactment, to adopt a State highway access management code, which would prescribe standards for driveway design and spacing for specified classes of highways in the State highway system. Access permits would

only be issued under the code. Local development review procedures would be required to conform to the access code, so that a local planning board, for instance, could not approve a subdivision of property on a State highway which would yield lot frontages unable to meet the driveway spacing requirements.

The access code also would contain standards for access management suitable for county and municipal roads and streets, and counties and municipalities would be authorized, at their option, to adopt these local codes.

The bill would also improve access management in other ways, such as by empowering the Department of Transportation to build access roads along State highways to replace existing direct driveway access to those State highways.

Finally, the bill would revise P. L. 1945, c. 33 (C. 27:7A-1 et seq.) to provide that all State highways on new alignment would be built as limited access highways; to recognize that a limited access highway need not be a "freeway" (with all grade-separated interchanges) and generally to update the provisions of that law.

The "State Highway Access Management Act of 1986" would help New Jersey to cope with growth pressures in State highway corridors and would ensure that these highways serve as main transportation arteries, not as clogged, low-speed roadways servicing commercial strip development.

TRANSPORTATION—HIGHWAYS AND ROADS
(Bridges, Tunnels, Ports)

Establishes the "State Highway Access Management Act of 1986."



SENATE, No. 2628
STATE OF NEW JERSEY

INTRODUCED OCTOBER 6, 1986

By Senators RAND, HURLEY, GAGLIANO, COWAN and
McMANIMON

Referred to Committee on Transportation and Communications

AN ACT concerning the financing of transportation improvements
in growth corridors, and supplementing Title 27 of the Revised
Statutes.

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

1 1. This act shall be known and may be cited as the "New Jersey
2 Transportation Development District Act of 1986."

1 2. The Legislature finds and declares that:

2 a. In recent years, New Jersey has experienced explosive growth
3 in certain regions, often along State highway routes. These
4 "growth corridors" and "growth districts" are vital to the
5 State's future but also present special problems and needs.

6 b. Growth corridors and districts are heavily dependent on
7 the State's transportation system for their current and future
8 development. At the same time, they place enormous burdens on
9 existing transportation infrastructure, contiguous to new de-
10 velopment and elsewhere, creating demands for expensive im-
11 provements, reducing the ability of State highways to provide for
12 through movement of traffic and creating constraints to future
13 development.

14 c. Existing financial resources and existing mechanisms for
15 securing financial commitments for transportation improvements
16 are inadequate to meet transportation improvement needs which
17 are the result of rapid development in growth areas, and there-
18 fore it is appropriate for the State to make special provisions
19 for the financing of needed transportation improvements in these
20 areas, including the creation of special financing districts and the

21 assessment of special fees on those developments which are re-
22 sponsible for the added burdens on the transportation system.

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

4 a. "Commissioner" means the Commissioner of Transportation.

5 b. "Department" means the Department of Transportation.

6 c. "Development" means "development" in the meaning of
7 section 3.1 of the "Municipal Land Use Law," P. L. 1975, c. 291
8 (C. 40:55D-4), for which a construction permit has been issued
9 pursuant to section 12 of P. L. 1975, c. 217 (C. 52:27D-130).

10 d. "Development assessment liability date" means a date speci-
11 fied in an ordinance or resolution, as appropriate, adopted under
12 section 7 of this act, which shall be either the effective date of
13 the ordinance or resolution, as appropriate, or a specified date
14 not more than 10 years prior to the effective date of the ordi-
15 nance or resolution, as appropriate.

16 e. "Development fee" means a fee assessed on a development
17 pursuant to an ordinance or resolution, as appropriate, adopted
18 under section 7 of this act.

19 f. "Public highways" means public roads, streets, expressways,
20 freeways, parkways, motorways and boulevards, including bridges,
21 tunnels, overpasses, underpasses, interchanges, rest areas, ex-
22 press bus roadways, bus pullouts and turnarounds, park-ride
23 facilities, traffic circles, grade separations, traffic control devices,
24 the elimination or improvement of crossings of railroads and
25 highways, whether at grade or not at grade, and any facilities,
26 equipment, property, rights-of-way, easements and interests
27 therein needed for the construction, improvement and maintenance
28 of highways.

29 g. "Public transportation project" means, in connection with
30 public transportation service or regional ridesharing programs,
31 passenger stations, shelters and terminals, automobile parking
32 facilities, ramps, track connections, signal systems, power systems,
33 information and communication systems, roadbeds, transit lanes
34 or rights of way, equipment storage and servicing facilities,
35 bridges, grade crossings, rail cars, locomotives, motorbus and
36 other motor vehicles, maintenance and garage facilities, revenue
37 handling equipment and any other equipment, facility or property
38 useful for or related to the provision of public transportation ser-
39 vice or regional ridesharing programs.

40 h. "Transportation development district" or "district" means
41 a district created under section 4 of this act.

42 i. "Transportation project" means, in addition to public high-
43 ways and public transportation projects, any equipment, facility
44 or property useful or related to the provision of any ground,
45 waterborne or air transportation for the movement of people and
46 goods.

1 4. a. The governing body of any county may, by ordinance or
2 resolution, as appropriate, apply to the commissioner for the
3 designation and delineation of a transportation development dis-
4 trict within the boundaries of the county. The application shall
5 include: (1) proposed boundaries for the district, (2) evidence
6 of growth conditions prevailing in the proposed district which
7 justify creation of a transportation development district in con-
8 formity with the purposes of this act, especially as expressed in
9 subsection c. of section 2 of this act, (3) a description of trans-
10 portation needs arising from rapid development within the dis-
11 trict, (4) certification that there is in effect for the county a
12 current county master plan adopted under R. S. 40:27-2 and that
13 creation of the district would be in conformity both with the county
14 master plan and with the State Development and Redevelopment
15 Plan adopted under the "State Planning Act," P. L. 1985, c. 398
16 (C. 52:18A-196 et al.), and (5) any additional information that
17 the commissioner may require.

18 b. The commissioner shall, within 90 days of receipt of a com-
19 pleted application and upon review of the application as to suf-
20 ficiency and conformity with the purposes of this act, (1) by
21 order designate a district and delineate its boundaries in con-
22 formance with the application, or (2) disapprove the application
23 and inform the governing body of the county in writing of the
24 reasons for the disapproval. The governing body may, in the case
25 of a disapproval of its application, resubmit an application in-
26 corporating whatever revisions it deems appropriate, taking into
27 consideration the commissioner's reasons for disapproval.

1 5. a. Following the commissioner's designation and delineation
2 of a district under section 4 of this act, the governing body of
3 the county shall initiate a joint planning process for the district,
4 with opportunity for participation by State, county, municipal
5 and private representatives. The joint planning process shall
6 produce a draft district transportation improvement plan and
7 a draft financial program.

8 b. The draft district transportation improvement plan shall
9 establish goals and priorities for all modes of transportation
10 within the district, shall incorporate the relevant plans of all
11 transportation agencies within the district and shall contain a

12 program of transportation projects which addresses transporta-
13 tion needs arising from rapid growth conditions prevailing in
14 the district and which therefore warrants financing in whole or
15 in part from a trust fund to be established under section 7 of
16 this act. The draft district transportation improvement plan
17 shall be consistent with the State transportation master plan
18 adopted under section 5 of P. L. 1966, c. 301 (C. 27:1A-5), the
19 county master plan adopted under R. S. 40:27-2 and the State
20 Development and Redevelopment Plan adopted under the "State
21 Planning Act," P. L. 1985, c. 398 (C. 52:18A-196 et al.).

22 c. The draft financial program shall include an identification
23 of projected available financial resources for financing district
24 transportation projects outlined in the draft district transporta-
25 tion improvement plan, including recommendations for types and
26 rates of development fees to be assessed under section 7 of this
27 act, and projected annual revenue to be derived therefrom.

28 d. The governing body of the county shall make copies of the
29 draft district transportation improvement plan and the draft
30 financial program available to the public for inspection and shall
31 hold a public hearing on them.

1 6. a. The governing body of any county which has completed
2 all the requirements of section 5 of this act may, by ordinance
3 or resolution, as appropriate, adopt a district transportation im-
4 provement plan. The district transportation improvement plan
5 shall be derived from the draft district transportation improve-
6 ment plan developed under section 5 of this act and shall contain
7 a program of transportation projects intended to be financed
8 over time in whole or in part from a trust fund to be established
9 under section 7 of this act. The district transportation improve-
10 ment plan shall be incorporated into the capital improvements
11 program required to be adopted under P. L. , c. (C.
12) (now pending before the Legislature as Senate Bill
13 No. 2626 and Assembly Bill No. 3289 of 1986) and shall be con-
14 sistent with any transportation improvement program which the
15 county may be required to submit to the department.

16 b. No ordinance or resolution, or amendment or supplement
17 thereto, adopted under this section shall be effective until ap-
18 proved by the commissioner. In evaluating the district transporta-
19 tion improvement plan, the commissioner shall take into con-
20 sideration: (1) the appropriateness of the district boundaries
21 in light of the findings of the plan, (2) the appropriateness of
22 the content and timing of the program of projects intended to
23 be financed in whole or in part from the district trust fund in

24 relation to the transportation needs stemming from rapid growth
25 in the district, (3) the hearing record of the public hearing held
26 prior to adoption of the ordinance, and (4) any written comments
27 submitted by municipalities or other parties. The commissioner
28 shall complete the review of the ordinance or resolution and
29 shall inform the governing body in writing of the approval or
30 disapproval thereof within 180 days of receipt. The written notice
31 shall be accompanied, in the case of approval, by the commis-
32 sioner's estimate of the resources which may be made available
33 under this act and from other sources to support implementa-
34 tion of the plan and, in the case of disapproval, by the reasons
35 for that disapproval. The governing body may, in the case of a
36 disapproval, resubmit an ordinance or resolution, as appropriate,
37 or amendment or supplement thereto, incorporating whatever re-
38 visions it deems appropriate, taking into consideration the com-
39 missioner's reasons for disapproval.

1 7. a. After the effective date of an ordinance or resolution, as
2 appropriate, adopted under section 6 of this act, the governing
3 body of the county may provide, by ordinance or resolution, as
4 appropriate, for the assessment and collection of development
5 fees on developments within the district, including those develop-
6 ments which consist of a change of use on previously developed
7 property.

8 b. The ordinance or resolution, as appropriate, shall specify
9 whether the fee is a one-time fee, to be assessed and collected
10 once, or an annual fee, to be assessed annually and collected
11 not more often than quarterly.

12 c. The ordinance or resolution, as appropriate, shall specify a
13 development assessment liability date. Developments occurring
14 after the development assessment liability date shall be liable
15 for assessment on the effective date of the ordinance or on the
16 date of development, whichever is later. Developments for which
17 a construction permit is issued before the development assess-
18 ment liability date shall not be liable for assessment.

19 d. The ordinance or resolution, as appropriate, also shall pro-
20 vide for the establishment of a transportation development dis-
21 trict trust fund under the control of the county treasurer. All
22 monies collected pursuant to the ordinance or resolution, as ap-
23 propriate, shall be deposited into the trust fund.

24 e. An ordinance or resolution, as appropriate, adopted under
25 this section also may contain provisions for: (1) delineating a
26 core area within the district within which the conditions justify-
27 ing creation of the district are most acute and providing for a

28 reduced development fee rate to apply outside that core area;
29 (2) credits against assessed development fees for payments made
30 or expenses incurred which have been determined by the govern-
31 ing body of the county to be in furtherance of the district trans-
32 portation improvement plan, including but not limited to, con-
33 tributions to transportation improvements, other than those re-
34 quired for safe and efficient highway access to a development,
35 and costs attributable to the promotion of public transit or ride-
36 sharing; (3) exemptions from or reduced rates for development
37 fees for specified land uses which has been determined by the
38 governing body of the county to have a beneficial, neutral or
39 comparatively minor adverse impact on the transportation needs
40 of the district; and (4) a reduced rate of development fees for
41 developments for which construction permits were issued after
42 the development assessment liability date but before the effective
43 date of the ordinance or resolution, as appropriate, where those
44 dates are different.

1 8. An ordinance or resolution, as appropriate, adopted under
2 section 7 of this act shall provide for the assessment of develop-
3 ment fees based upon one or more of the following criteria:

4 a. A vehicle trip fee, based on the number of vehicle trips
5 generated by the development;

6 b. A square footage fee, based on the occupied square footage
7 of a developed structure;

8 c. An employee fee, based on the number of employees regularly
9 employed at the development;

10 d. A parking space fee, based on the number of parking spaces
11 located at the development; or

12 e. Any other fee, approved by the commissioner, which is re-
13 lated to trip generation or impact on the transportation system.

1 9. Computation of fees due under any development fee assessed
2 under an ordinance or resolution, as appropriate, adopted under
3 section 7 of this act shall be made according to uniform standards
4 adopted by regulation by the commissioner.

1 10. Every transportation project funded in whole or in part by
2 funds from a transportation development district trust fund shall
3 be subject to a project agreement to which the commissioner is
4 a party. Every transportation project for which a project agree-
5 ment has been executed shall be included in a district transpor-
6 tation improvement plan adopted by an ordinance or resolution,
7 as appropriate, under section 6 of this act. A project agreement
8 may include other parties, including but not limited to, munici-
9 palities and developers. A project agreement shall provide for

10 the assignment of financial obligations among the parties, and
11 those provisions for discharging respective financial obligations
12 as the parties shall agree upon. A project agreement also shall
13 make provision for those arrangements among the parties as are
14 necessary and convenient for undertaking and completing a trans-
15 portation project. A project agreement may provide that a county
16 may pledge funds in a transportation development district trust
17 fund or revenues to be received from development fees for the
18 repayment of debt incurred under any debt instrument which
19 the county may be authorized by law to issue. Each project
20 agreement shall be authorized by and entered into pursuant to
21 an ordinance or resolution, as appropriate, of the governing body
22 having charge of the finances of each county and municipality
23 which is a party to the project agreement. Any project agreement
24 may be made with or without consideration and for a specified
25 or an unlimited time and on any terms and conditions which may
26 be approved by or on behalf of the county or municipality and
27 shall be valid whether or not an appropriation with respect
28 thereto is made by the county or municipality prior to the authori-
29 zation or execution thereof. Every county and municipality is
30 authorized and directed to do and perform any and all acts or
31 things necessary, convenient or desirable to carry out and per-
32 form every project agreement.

1 11. No expenditure of funds shall be made from a transporta-
2 tion development district trust fund except by appropriation
3 by the governing body of the county and upon certification of
4 the county treasurer that the expenditure is in accordance with
5 a project agreement entered into under section 10 of this act.
6 Notwithstanding the provisions of P. L. 1976, c. 68 (C. 40A:4-45.1
7 et seq.) to the contrary, there shall be exempted from the final
8 appropriations of a county, subject to the spending limitations
9 imposed thereunder, any appropriations made by the county in
10 accordance with this section or any payments made by the county
11 pursuant to a project agreement authorized in accordance with
12 section 10 of this act.

1 12. The commissioner may, subject to the availability of ap-
2 propriations for this purpose and pursuant to a project agree-
3 ment entered into under section 10 of this act, make loans to
4 a party to a project agreement for the purpose of undertaking
5 and completing a transportation project. In this event, the project
6 agreement shall include the obligation of the governing body of
7 the county to make payments to the commissioner for repayment

8 of the loan according to an agreed upon schedule of payments.
9 The commissioner may receive monies from a county for repay-
10 ment of a loan and pay these monies, or assign his right to re-
11 ceive them, to the New Jersey Transportation Trust Fund Au-
12 thority, created pursuant to section 4 of P. L. 1984, c. 73 (C.
13 27:1B-4), in reimbursement of funds paid to him by that authority
14 for the purpose of making loans pursuant to this section.

1 13. The governing bodies of two or more counties which have
2 established, or propose to establish, adjoining transportation
3 development districts, and which have determined that joint or
4 coordinated planning or implementation of transportation projects
5 would be beneficial, may enter into joint arrangements under this
6 act, including: (1) filing joint applications under section 4 of
7 this act, (2) initiating a coordinated joint planning process under
8 section 5 of this act, (3) adopting coordinated district transpor-
9 tation improvement plans under section 6 of this act and (4) en-
10 tering into joint project agreements under section 10 of this act.

1 14. a. The commissioner shall, subject to the availability of
2 appropriations, allocate State aid under the terms and conditions
3 of this act to counties which have established transportation de-
4 velopment districts. State aid provided under this section shall
5 be provided for the purpose of undertaking transportation projects
6 in district transportation improvement plans approved under
7 section 6 of this act and for the purpose of assisting in the
8 development of district transportation improvement plans under
9 section 5 of this act and shall be allocated on a pro rata basis
10 among all counties which have established transportation de-
11 velopment districts in proportion to the development fees assessed
12 within a district or in proportion to funds appropriated by a
13 county for the development of a district transportation improve-
14 ment plan, as appropriate, except that the total amount of State
15 aid so allocated shall not exceed the total amount of development
16 fees assessed in all transportation development districts and plan
17 development funds appropriated by all counties.

18 b. When the commissioner determines in any fiscal year that
19 the funds appropriated for the purposes of this section exceed
20 the total amount of development fees assessed and plan de-
21 velopment funds appropriated by counties which have established
22 transportation development districts, the commissioner may allo-
23 cate these funds to counties and municipalities at his discretion
24 for purposes consistent with this act.

1 15. The commissioner shall adopt the rules and regulations, in
2 accordance with the "Administrative Procedure Act," P. L. 1968,

3 c. 410 (C. 52:14B-1 et seq.), necessary to effectuate the purposes
4 of this act.

1 16. If any clause, sentence, paragraph, section or part of this
2 act is adjudged by any court of competent jurisdiction to be in-
3 valid, the judgment shall not affect, impair or invalidate the
4 remainder hereof, but shall be confined in its operation to the
5 clause, sentence, paragraph, section or part hereof directly in-
6 volved in the controversy in which the judgment is rendered.

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

1 18. This act shall take effect immediately.

STATEMENT

The need for transportation improvements caused by rapid development in New Jersey's growth corridors far exceeds the resources available to State, county and municipal governments to pay for those improvements. This bill would authorize these governmental bodies and developers to join together in regional partnerships to plan and finance the improvements needed to accommodate and facilitate growth. Specifically, the bill would enable counties, in conjunction with the Department of Transportation, to establish transportation development districts (TDDs) in New Jersey's growth corridors. A county which had set up such a district would be empowered to assess, by ordinance, development fees to be used to finance transportation improvements. All funds would be required to be spent in accordance with a district transportation improvement plan and individual project agreements approved by the Commissioner of Transportation. TDD funds could be used to finance, in whole or in part, improvement projects on State highways, county roads or municipal streets or other transportation capital projects, as needed, within the district.

The State would assist the development of TDDs in two ways. First, the New Jersey Transportation Trust Fund Authority would be authorized to serve as "banker" to TDDs through advancing cash for projects which would then be repaid from projected revenue. Second, a special State aid program would be established to provide matching funds for fees assessed in TDDs.

TRANSPORTATION—GENERAL

Establishes the "New Jersey Transportation Development District Act of 1986."



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mjz: 1-100



SENATOR RICHARD VAN WAGNER (Chairman, Senate County and Municipal Government Committee): I am Senator Richard Van Wagner. I am Chairman of the County and Municipal Government Committee in the State Senate. To my right is Senator Walter Rand, who is the Chairman of the Senate Transportation and Communications Committee. To his right is Senator Ron Rice, from Essex County, who has joined us here today. On my far left is Assemblyman Walter Kern, from Bergen County, who has also joined the Committee today.

I would like to first express my gratitude to Senator Rand, Chairman of the Senate Transportation and Communications Committee, for agreeing to a joint hearing on this very important legislation creating a regional planning component to address not only the State's transportation needs, but the transportation needs of the county and municipal governmental units we represent, and for looking at concepts that deal with regional transportation planning, as they relate to community impact. I would like to express again my gratitude to him for coming to the hearing today, and for agreeing to this joint hearing.

It was our feeling that it would be beneficial to both our respective Committees and to our constituencies if, in fact, we jointly reviewed these bills from the perspective of the area that the County and Municipal Government Committee has jurisdiction over, which is primarily in areas such as land use and county and municipal planning and, of course, from the overall perspective that Senator Rand's Committee views legislation, as Transportation Committee Chairman and the various components that make up the State transportation system.

We had hoped to have a very brief County and Municipal Government Committee hearing today; however, some of the members of the Senate County and Municipal Government Committee have been delayed, so we will begin, as advertised, right now with the public hearing on Transplan -- a joint public hearing. I would like to now introduce Senator Walter Rand.

SENATOR WALTER RAND (Chairman, Senate Transportation and Communications Committee): Thank you very much, Senator Van Wagner. I am just very happy to be here with the distinguished Senator from Monmouth County, and to join--

SENATOR VAN WAGNER: Monmouth and Middlesex.

SENATOR RAND: Oh, Monmouth and Middlesex -- two counties. Pardon me. I am delighted to be here to review the three-bill package we have concerning -- with the name of Transplan, which is a planning procedure going from the Department of Transportation, or the State, down to the municipalities, including a regional approach. I am very happy to join today with Senator Van Wagner and Senator Rice and Assemblyman Kern, to review these bills. They are important bills in the context that if we do nothing, we are going to have problems that we haven't even begun to feel. They are of such magnitude that as we go into the twenty-first century, these are bills that must be addressed, maybe not in the exact context they are in, but certainly in the overall planning procedure, whether they be State access roads or whether they be county roads or municipal roads or transportation development districts.

So, I am happy to join with you, Senator Van Wagner in having this hearing today. Let me turn it back to you.

SENATOR VAN WAGNER: Before we call our first witness, I would also like to thank the Old Bridge Township administration for affording us this very fine meeting room. Esther and Jack have set up the coffee. It will be brewed, I'm sure, shortly, for those of you who would like to avail yourselves of it. Our aide has not arrived with the witness list. However, I notice we have the distinguished Commissioner of Transportation here with us today. She has been very instrumental in advocating this three-bill package and bringing it before the Legislature under Senator Rand's sponsorship. I would like to call on her as the first witness today, if I might. Commissioner Hazel Gluck, Department of Transportation.

C O M M I S S I O N E R H A Z E L F R A N K G L U C K:
Thank you very much, Mr. Chairmen. Gentlemen and gentle lady,
it is nice to be with you today. I appreciate your inviting me
to this meeting to talk about Transplan.

It has been three years now since the Department realized that in order to fulfill our mission for the people of the State, new legislation was needed -- legislation that would address three issues: Innovative ways to finance transportation projects; a system for planning on a regional basis; and a way to manage access to our State highway system. During that time, the need for this kind of legislation has become even more pressing.

As a result of this recognition, a year ago, members of the Legislature -- some of whom are here today -- introduced three bills, which we finally called "New Jersey Transplan."

In legislative testimony last December, I remarked that New Jersey had a decision to make concerning the rapid pace of development in our State; a decision whether to plan for the future, or to continue to allow events to overwhelm us.

Since that time, the Department has participated in several legislative hearings and we have met with many individuals and representatives of various interest groups. Editorials have been published; resolutions have been adopted; position papers, counterproposals, and proposed amendments have been put on the table for discussion.

In all, many points of view have been heard, not only by us at the Department, but by you, as elected leaders of this State.

As we meet here today, I believe there is an overwhelming consensus that better regional planning of growth is essential. Gallup Polls, commissioned by both the Alliance for Action and the State Planning Commission, show that there is statewide support among the public for planning our State's future. The people clearly do not want to choke on our

success. There is a crying need to provide basic mechanisms in response to very serious problems: Integrated planning; equitable proportions of funding; management of access to the State highway system. These mechanisms must be balanced against the need to continue economic growth and to improve our quality of life.

Approximately one full year of consensus seeking has been undertaken by me and my staff with the League of Municipalities, county entities, builders, developers, and planning advocates. I am here today to give you a snapshot of where we are at this point in time, and to make suggestions for the future of these proposals.

The municipal planning partnership: Much study and deliberation has gone into this bill. It is, by everybody's admission, the most difficult. Proposals have been suggested for amendments to the bill. County master plans should be based on municipal master plans. Consensus on this point is very probable.

The second point: Development review of counties to be limited to transportation, water, sewer, and drainage having potential regional impact. Consensus in support of this proposal has been reached during the negotiations. It is a matter of changing a few words, and understanding what those few words mean.

The third suggestion: Creation of a land use arbitration board to moderate disputes between levels of government. We believe in the concept of arbitration, but we are really not sure this forum is the most appropriate. We really think that more work needs to be done in this area. I have this nagging, albeit admittedly probably personal feeling, that to create another entity to do arbitration in this process is to do just that. It is another layer. I have this nagging thing -- as many of you have -- about creating another layer, or another entity. We do have duly elected public officials.

Our concept in the bill was that the county would be the final word on this. There seems to be some discussion with the League of Municipalities on that, and maybe there is another way to approach it. But I have a certain reluctance about creating something else.

The fourth was the development of capacity based review for transportation impacts. We really feel that further study is needed to develop a process which is not cumbersome to implement. When I read the suggestions that had been made in the discussions between our staff and the League with regard to this particular aspect, it seemed to me that we were getting ourselves into some kind of a bureaucratic maze, and I wanted very much to be able to avoid that. So, I have asked that they continue to talk, and maybe come up with something that would be a little bit more simplified in the process.

The fifth was submission of plans to municipality first, who against standards developed by the Department of Transportation judges potential regional significance. In the original bill, it was to go to the county first. Generally, we are inclined to favor this approach as a compromise, as opposed to what we said originally, in the hope that the concurrent reviews-- I mean, it can go to the municipality. We view it should go to the county probably at the same time. They can review it first, but concurrent reviews might speed up the process, and we are all looking for this process to be as efficient as possible.

The sixth point was funding. The increased role of counties in planning is coming at them from many sides. There are our proposals calling for them to act in transportation development districts, the access code, and the municipal/county partnership. The State Planning Commission will ask the counties to take the lead in the cross acceptance process for the State plan, or the future State plan, and DEP relies on the counties for many, many things.

For our share of the increased responsibilities, these bills call for \$2 million a year for three years. Additionally, with Trust Fund renewal, which we are hopeful we will see, we propose: A doubling of local aid, from \$19 million to \$40 million; the creation of a \$20 million line item for county aid, which has never been in there before; maintaining the Faus Swap, and making available \$10 million for transportation development districts.

SENATOR VAN WAGNER: Do you want to sit over here, Pete? Sorry, we're doing a little logistical maneuvering.

COMMISSIONER GLUCK: That's okay, it's housekeeping.

SENATOR VAN WAGNER: It's called "regional planning."

COMMISSIONER GLUCK: If we can't seat them, what kind of a shot do we have at this?

SENATOR VAN WAGNER: It's tough finding seats.

COMMISSIONER GLUCK: Yeah, right.

SENATOR VAN WAGNER: If I might, we have been joined by Senator Gagliano, a member of the Senate Transportation and Communications Committee from Monmouth County.

SENATOR GAGLIANO: I just want to comment. I am usually on time. I came in late because you had already started, but my notice said 11:30 a.m.

ASSEMBLYWOMAN SMITH: So did mine.

SENATOR GAGLIANO: Therefore, I don't think I'm late, unless my watch is wrong.

SENATOR VAN WAGNER: You want the demerits removed?

SENATOR GAGLIANO: I want the demerits removed, yes, sir.

SENATOR VAN WAGNER: We had originally planned to have a County and Municipal Government Committee meeting, but the members were delayed, so we decided to start. The Commissioner had arrived about 11, and we felt that would be--

SENATOR GAGLIANO: Fine, I have no problem. I just didn't know.

SENATOR VAN WAGNER: So, no one is marking you down as being late. I want you to know that.

ASSEMBLYWOMAN SMITH: No demerits, Richard?

SENATOR VAN WAGNER: No demerits. We have been joined also by Assemblywoman Joann Smith, Vice Chairman of the Assembly Transportation and Communications Committee. Joann represents the Thirteenth District, which includes Old Bridge. I'm sorry, Commissioner.

COMMISSIONER GLUCK: That's okay. I'll spare you going back to the beginning -- and me, too. If I could just reiterate that, because of all the new responsibilities the counties are facing, whether with the State Planning Commission or through the possibilities of these bills, we have asked for \$2 million a year for three years for the counties. Additionally, in the Trust Fund renewal, we proposed the doubling of local aid, creating a \$20 million county aid line, maintaining the Faus Swap, and making available through the renewal of the Transportation Trust Fund, \$10 million for transportation development districts, which will then allow us to help these districts if they have corridors pop up very quickly that nobody has planned for, which is happening all over the State.

We hope to work with the Legislature to pursue adequate financial support, and to work with the counties to review their fee schedules for permitting.

Now, the access bill. Proposed changes to the bill: The developers and legislators want to see more of the code defined in the statute, so as to be less open-ended in the promulgation of rules and regulations. We concur in this rationale, and hope to draft language supportive of that concept.

Developers want strict time frames in the statute. The Department has just announced a new access code and new access time frames. We are now measuring the accuracy of this

new policy. It has taken me nine months to put this access policy together at the Department of Transportation, with the time frames in it, and I submit to you that, beginning October 1, this new policy begins. I am very pleased. I think it is an excellent policy, and I think it will work very well.

When we get to a major access policy, gentlemen, you have to understand that the time frame puts the major access policy for all of the planning work and the traffic engineering work and the regular engineering work-- It puts all that into a 180-day time frame. After that, there is an appeal process, and before the appeal process there may be a negotiating process. So, it is very hard to wrap your arms around an absolute time frame at the end of the process. I think you understand that. Very often, negotiations go on with regard to very large developments in the State between the developer and the Department, and we need to have that kind of flexibility.

So, before we put this into cement, I would ask that the Department of Transportation, since we have gone ahead and revised our whole access policy, be allowed to go ahead with this administrative procedure, with my promise to you that we will be keeping an eye on it. We have it on a computerized tracking system, and we are going to know whether it works or it doesn't work, and if it doesn't work, why it doesn't work.

Developers feel that counties and municipalities should not be granted power to adopt access codes of their own. The Department disagrees, and feels that conformity of State, county, and municipal policies should be encouraged wherever possible.

The developers want an advisory board empaneled to oversee development of the code. We have suggested that such a board be seated on a voluntary basis, not under statute. As you are aware, the bill, as originally submitted, was amended to require five public hearings, in order to increase input, which we very much favor.

Let me just say that as a former regulator, I can tell you that when we sat down to write rules and regulations in the short time I spent at the Department of Insurance, we worked with the industry. That is not a foreign concept to me personally, and that is not a foreign concept -- or should not be a foreign concept to the departments of the State. I think the developers know that I feel strongly that that kind of real-world advisory group is essential when we are doing something like this, and that is what we would go towards in the development of this code.

The developers want a method to appeal classification of certain highway segments. We feel this is an important addition which strengthens the proposal, and we will propose appropriate language to that extent.

The Transportation Development District Bill: Developers strongly oppose the 10-year retroactivity feature. The Department continues to support this concept.

The developers want "fair share" language in the statute. We wholeheartedly support that. The concept of rational nexus, which is the legal concept, still applies within a designated district. You should know now that the access code is based on a rational nexus policy, meaning that by a formula that is worked out, it depends-- What a developer is assessed is based on his direct impact to the primary road system. It has nothing to do with 20 years out and down the road. That is the kind of thing we do. What it has to do with is direct impact, which is well within the law, as we understand it.

We need these tools to plan for our future. We cannot afford to wait much longer for mechanisms that will make that possible. My bottom line then must be that I believe that now is the time to move ahead. I do not believe we can reach a total consensus on all parts of all of the three Transplan bills, but I do believe that New Jersey cannot continue without

mechanisms to address equitable funding of infrastructure, management of access, and integration of land use planning in transportation. While we have never claimed that these bills are perfect, I believe that with some amendments they are fair, reasonable, and vitally needed -- a treatment, not a cure for our transportation ills. With your concurrence, within a very short time, I am prepared to bring to you the Department's final position on these three bills. Obviously, I welcome your counsel, and invite your questions.

Thank you.

SENATOR VAN WAGNER: Commissioner, I am curious to know, on the Transplan proposal -- and I realize you have other recommendations, and that there are areas of negotiation that are still being addressed-- Have those areas of negotiation also been coordinated with the planning targets that are being developed by the State Planning Commission?

COMMISSIONER GLUCK: Yes. As you know, I am a member of the State Planning Commission as well.

SENATOR VAN WAGNER: Yes.

COMMISSIONER GLUCK: We feel that Transplan fits right into the concepts that are being proposed at the State Planning Commission level. Transplan deals with specifics. The State Planning Commission deals with an overall policy as to growth in the State of New Jersey. It is through some of these mechanisms that we are talking about here that we will be able, hopefully, to implement some of the things that the State Planning Commission is talking about. Of course, we don't have a final anything yet, but--

SENATOR VAN WAGNER: Would it be your view that, based on an assumed agreement on the county/municipal access agreements and the other areas of some dispute, that the Transplan will tend to temper some of the stated goals as put forth in the State Planning Commission? There has been some criticism of the targets of the State Planning Commission, in terms of--

COMMISSIONER GLUCK: Let me just say that that preliminary draft plan was exactly that -- a preliminary draft plan. There are decisions right now at the State Planning Commission being made as to whether there should be any kind of a plan until after cross acceptance. In other words, let the cross acceptance process happen before another plan is put out -- another map is put out. Have an open cross acceptance process.

I don't think that this tempers anything. I think that this is very reasonable. I mean, the State Planning Commission's plan over all of the State of New Jersey-- This just fits into it. It is hard for me to answer you directly, because we don't really have a final plan. In my opinion, we shouldn't have a final plan at this point. It has to go through the cross acceptance and the public acceptance process at the State Planning Commission, if it is ever going to be meaningful. So, we don't really have a definitive plan at this point. What we have is a preliminary draft plan that we put out there for everybody to shoot at, and they did, which is what you want.

SENATOR VAN WAGNER: As you know, and you as a member, of course-- There have been some at least described growth corridors in the State.

COMMISSIONER GLUCK: Yes.

SENATOR VAN WAGNER: There has been some legislative reaction to that, and to the State planning component itself. I just wonder if you have a view as to the reasonableness or unreasonableness of the kinds of legislative proposals that have come forth.

COMMISSIONER GLUCK: If you are talking about the three bills--

SENATOR VAN WAGNER: Right.

COMMISSIONER GLUCK: --one was to have the development community represented on the State Planning Commission. If you

are asking me my personal opinion, I do not find that an offensive proposal. I don't know if it will be two, but I don't-- I mean, there is a vacancy right now. I don't find that an offensive proposal.

There is another bill to lengthen the time frame. That actually meets the time frame the State Planning Commission has set up, so that's a wash, I mean, as far as I am concerned.

The third bill, which was to have the Legislature review what the State plan was going to be, and approve it, I think-- I am going to be an armchair attorney. I think that is probably unconstitutional. I really don't think you do planning-- I don't think that is the proper place where planning is done. So, I would have strong objections to the third bill, but the first two I don't have objections to. I think the representation is warranted, and I think the time frame is the same as we are talking about.

SENATOR VAN WAGNER: Senator Rand?

SENATOR RAND: Thank you very much, Senator Van Wagner. First, let me welcome Assistant Commissioner Crawford here. He has been very involved also in these three bills.

If I might for just one moment, I would refer to an old song -- having seen some of these compromises which you offer, Commissioner -- "You've come a long way, baby."
(laughter)

COMMISSIONER GLUCK: So they tell me.

SENATOR GAGLIANO: That's a personal remark.

ASSEMBLYWOMAN SMITH: That is a personal remark.

SENATOR RAND: That was meant as a complimentary remark. I certainly appreciate the fact that you have given -- and I see my friend, Bill Dressel, from the League of Municipalities, smiling there-- At least we have the opportunity of hammering out something we can compromise ourselves on. I want to agree with you on the land use

arbitration board. I have no problem with some type of an arbitration board, but I think once you begin to put it in another department, and you begin to build another bureaucracy, I think we have defeated our very purpose. I think we can hammer something out, because there is no question that we will need some type of referee, so to speak.

I did want to refer to-- There is no question in our minds, at least in the minds of our Committee members -- and I'm sure a member of our Committee will have some comment to make -- that the amount of aid given -- the \$2 million a year for three years -- sounding like a substantial amount of money, really will not fill the ticket. Of course, that puts the responsibility back on the Legislature to provide the money, not only for ongoing transportation projects and the whole transportation issue, but also it gives us the responsibility, if we still want to add money, to provide the money.

We think your Department is going to need a technical staff of some expertise, to lend to the counties and the municipalities, because, literally, they don't have the money, and they don't have the expertise, and they just don't have the ability, under the circumstances they are facing today. I think our Committee recognizes that; that we are going to have to give you some kind of substantial help in that.

The access bill-- I am very happy that you are in no way, certainly demeaning, or cutting off the right of appeal. You are leaving the same right of appeal, the same procedure as in the regulations and in the law now. I certainly feel there ought to be some legislative oversight, and I see that you have no problem with that on a voluntary basis. It ought to be sunsetted; there is no question about that. It ought not to go on forever. I will admit to you that in my own personal view, you can't develop a code and then put it up -- take another year to review that code. I think the process ought to be ongoing, so we can complete the code and put it into effect,

because, truthfully, if we wait much longer, we are going to have more problems than we ever deemed possible.

So, I thank you myself, and I know the members of our Committee thank you, because of what you have been able to do. I want to make it very clear that we have not sat idly by. We have been discussing these problems in a pick and shovel manner, so to speak, in working sessions with the League of Municipalities, with the counties, with developers of all kinds. In fact, we got information from them as late as yesterday. So, it is my opinion that with the recommendations you made, and certainly with some of the suggestions -- and Senator Gagliano always has suggestions, and good ones, by the way, may I say -- we certainly think we are in a position, in conjunction with Senator Van Wagner's Committee and some of the recommendations he might offer us, to hammer out three bills that will not make everybody happy -- let me emphasize that-- Everybody is not going to be happy, but we will try to satisfy as many people as possible and still do the job that it is necessary for us to do.

COMMISSIONER GLUCK: Senator, I think, with the exception of the couple of areas we left open here-- I have said right from the beginning that we would be open to discussion, and through this process the Department-- I mean, we are not the last word -- the definitive word -- on how to write these things. I think we have been open. The staff has spent a lot of time on it. But I also said at the very beginning, those things we felt made good sense and did not gut the bills, we would be happy to do. But in no way-- I mean, there is no sense putting forth three Transplan bills and putting provisions in them that would, in essence, gut the purpose for the bills. So, there are things that we just-- As you said, we are not going to make everybody happy. There are just things the Department feels strongly that we just can't do.

SENATOR RAND: Senator Van Wagner?

SENATOR VAN WAGNER: Senator Gagliano?

SENATOR GAGLIANO: Commissioner, with respect to the arbitration board proposal--

COMMISSIONER GLUCK: Yeah?

SENATOR GAGLIANO: --I want you to know that I agree with your sentiments on that. I don't think we should establish another layer of bureaucracy or hearings. But, at this point, what would you suggest, off the top of your head, or what are your people suggesting so we would have quick, ready access to people getting together and discussing the problems and trying to dispose of them?

COMMISSIONER GLUCK: Well, I think two things have been suggested. One, frankly, Senator Rand suggested -- and I should let him speak for himself. The other, someone in my Department suggested, maybe through the Office of Administrative Law. I have to tell you, I don't think that is the way to go, for a lot of reasons, not the least of which is, they have a lot of things that happen over there, and it takes a lot of time to get from point A to point B in their shop as well. We all have that. That is the nature of the beast we work with in a bureaucracy. I don't think that that would speed up the process or necessarily add to it. I don't know whether, Senator Rand-- I was not at the meeting, but I don't know whether you want to--

SENATOR RAND: Well, very frankly, I think -- with your consent, Mr. Chairman-- I certainly don't believe it ought to be in another department--

COMMISSIONER GLUCK: Yeah, I don't either.

SENATOR RAND: --because you set up a layer of bureaucracy. I think we need a mechanism. What the mechanism is-- I would like to simplify it as quickly and as ably as possible. I foresee that there might be someone who is going to have to make a decision. There might be a conflict between the county and municipal thinking. We hope not, and maybe the

way we streamline the position by getting the municipality involved at the same time as the county and the State are involved, will eliminate a lot of those problems. But I must tell you, I am at a loss and, of course, I hope to have a working session with Senator Van Wagner's Committee, as well as my own Committee, to make a suggestion that maybe we ought to have something in-house, so to speak, which would be a little quicker, and which certainly can be done in a hurry, rather than go to the Administrative Law Judge and sit and wait for four months, or five months, or go to another department.

COMMISSIONER GLUCK: I have to tell you, Senator, that we do some of this now, as you well know. I mean, we often find ourselves to the point where we are-- I am about to have our people go through negotiation training, simply because, you know, if you are a professional planner, or you are a professional engineer, it doesn't necessarily-- Negotiations is an art, in and of itself. We do some of what Senator Gagliano was referring to in the Department right now. I, too, share your sentiments about putting it into another department. I think it will only bog down, and I don't think the people who are trying to develop their properties want to -- and I don't think the League does either, for that matter -- get into a situation where this thing is going to bog down. I mean, we just spent all this time trying to streamline the access code. If we get the standards in and we get a mechanism that works, I think you're right. I think there will be exceptions that will have to be arbitrated, rather than the rule.

SENATOR RAND: Yeah, plus the fact that if we at least keep it in the Department we have some oversight of, we have the ability at least to--

COMMISSIONER GLUCK: That's true.

SENATOR RAND: --speak to them, and say, "Speed it up. Do something, we can't sit and wait."

COMMISSIONER GLUCK: That's right.

SENATOR RAND: So, I am much more comfortable with that approach, understanding that we do need some type of a referee in the situation.

SENATOR GAGLIANO: Excuse me. Commissioner, what are some of the instances you envision where it would come down to a battle, for example, between -- well, say, among the local, county, and State governments? Let's try an example. I mean, I think I know some, but maybe for the record we can determine in advance what we are wrestling with.

COMMISSIONER GLUCK: Well, it could be that someone comes in to do a development in a municipality and they are granted the right to do that development. There could be a dispute because the county may not think that the drainage or the water or the transportation, or whatever it is, can hold that kind of a development, and that it shouldn't be that size, especially when it comes to the roads. Very often, when we reach below the level of service, which is not a thrilling level of service, which your constituents would complain about and do, and probably should, we get to a situation where something's got to give.

SENATOR GAGLIANO: In other words, it is not going to be-- You feel it wouldn't be sufficiently in the definitions. For example, the size of the development would not, in and of itself, make that determination for us. There are instances where the size of the development, or the size of the proposal, whatever it may be, will not necessarily spell out the fact that we need to build a new road or new access, or spend money on drainage.

COMMISSIONER GLUCK: I think if we set standards, which is what Senator Rand is talking about, and which is what I talked about here in my testimony-- I think if we set standards, if it goes to the municipality first, and the Department has set standards, a lot of that will be taken care of up-front, because those standards will have to be lived by.

SENATOR GAGLIANO: That's what I thought it was. I thought, for example, the number of housing units, or the size and square footage of the facilities, or whatever it might be, or the number of parking spaces they were going to provide-- I thought there were certain designated sizes of construction or proposed development, which would then trigger this situation coming into effect. Once that--

COMMISSIONER GLUCK: Certain improvements, yeah. We set 100,000 commercial square feet, or more, and 250 residential units or more.

SENATOR GAGLIANO: Right. I thought that once that happened, it would then come under the statute we hopefully will be able to pass. Then it would seem to me -- I'm just guessing now--

COMMISSIONER GLUCK: That you wouldn't need the--

SENATOR GAGLIANO: --that we would not-- I don't think we would need arbitration on that issue, if they were going to be of a certain size. I'm wondering, at what point-- Would it be, for example, the size of a proposed road? For example, DOT says, "If you are going to build 500 units of condominiums, or whatever they might be, or so many thousand square feet of office space in this area, you are a quarter of a mile from an entrance to a State highway, and that highway does not have a controlled intersection now. We want a controlled intersection, and we want it widened. We want provisions for left turns, stacking lanes," whatever it might be. Maybe the county would say, "Well, we don't think that is necessary a quarter of a mile down the road." That is going to cost somebody \$500,000 or \$600,000. The developer doesn't want to pay it; we don't want to pay it, and we don't believe DOT is right in requiring it. Is that where we are going to be, and if we are--

COMMISSIONER GLUCK: I don't think so. I think engineering standards are pretty well-determined. But if you

had an intersection that encompassed three different municipalities, and everybody was developing at that intersection, that is where these kinds of things get very hairy.

SENATOR GAGLIANO: Oh, yeah.

COMMISSIONER GLUCK: I mean, we're working now in your district over at 66, between Tinton Falls and Neptune, and we are really the ones-- That could be a small transportation district development corridor, if we had such a thing right now. But, we are the ones who are trying to facilitate everyone's rational nexus; you know, how much it is going to cost them, and what is going to be built there, because you are doing it between two towns -- two municipalities. Sometimes that is where the disputes arise, when there are several municipalities, or a building in one municipality, with the traffic development going to another, and the other one saying, "What good is it doing me? I'm getting the traffic, but what are you doing for me?"

There are things that enter into this that, you know, go beyond engineering standards. I think pretty much everybody -- the municipal engineer, the county engineer, the State engineers -- agree on the standards. The standards are national standards. I don't think the debate rests with the standards. Jim, do you want to add anything? (no response from Mr. Crawford)

SENATOR GAGLIANO: You don't think the debate will rest with the size of the intersection or whether or not it has to have traffic controls. You think the counts that will be taken will then be related back to the standards, and they will be able to agree on that without arbitration?

COMMISSIONER GLUCK: Yes, I think that is the case. Jim, do you have any other analogy about where arbitration might occur?

A S S T. C O M M. J A M E S A. C R A W F O R D:
Senator, I think the other case where arbitration would be most likely to occur, would be where an improvement is required in order to handle traffic. It is not part of the development district, and clearly there are other potential beneficiaries of it. How that will eventually get equitably charged off--

COMMISSIONER GLUCK: That is one of our biggest--
That is what we deal with every single, solitary day.

SENATOR GAGLIANO: Mr. Chairman, if I may just continue on this, because I think this is going to be a good part of the problem they will have to deal with, if not in the legislation afterwards.

Supposing we somehow provided in the legislation that when this situation occurs -- we get to the point where people are not agreeing-- Supposing there would be a reference to an Administrative Law Judge who would be practiced in this? I am trying to find a person who would be assigned, or an office that would be assigned that would understand the issues, without having to be educated in the issues for six months.

COMMISSIONER GLUCK: I think an Administrative Law Judge, with all due respect, would have to be educated first. I mean, the people who deal with us with these problems are from the Attorney General's office. We have Deputy Attorney Generals all the time. They are very highly skilled in this, at this point. Because we do this every day, and we have a Transportation Unit in the Attorney General's office, they are probably the most knowledgeable people when it comes to all of the aspects, as well as the legal aspects, that there are in State government. So, because we do this every day, you know, I would think you would have a better shot at having it done, and done expeditiously, maybe even using us as the mechanism, since we have all the expertise, rather than putting it in another department or going to an Administrative Law Judge.

SENATOR GAGLIANO: I agree with the Chairman that it ought to be in your Department. I don't think there is any question about that. I am just trying to get someone into your Department, if they are not already there, with the expertise to have a hearing and to make a speedy decision. I guess that's what everybody wants. I do. If there were some way we could put that into the legislation, if it is necessary-- I anticipate--

COMMISSIONER GLUCK: We have in our access policy now, Senator, the right to appeal. It has time frames around it. The appeal is to the Deputy Commissioner of the Department of Transportation. He has time frames built into that appeal. He has a certain amount of days in which he has to call the hearing. So, we have time frames built into our access policy already. We are already moving on that kind of a track, and I think it is fair--

SENATOR GAGLIANO: Could we do that sort of thing here? Would it work here?

SENATOR RAND: Senator Van Wagner, if I may, for a moment, just-- First, let me say that I welcome the Commissioner's recommendation that it was an area of reversing the original procedure, whereby the Department recommended that the municipality becomes the last person on the totem pole. I think that by shifting the procedure around, putting the municipality in at the initial situation, along with DOT, and along with the county, it will eliminate a lot of these problems. That's number one. What we've done is, we have shifted the focus, not making the municipality any higher, but certainly not putting them at the bottom of the totem pole. We eliminate a lot of problems by doing that immediately.

Second is, yes, Senator Gagliano, we are absolutely going to do it legislatively. We are going to name the people on the arbitration board, and it should be in the Department. So you are going to have an opportunity to have your input as

to the people, along with Senator Van Wagner. Certainly I am sure that the other side is going to have something to say, but at least on our side, we think we can pick out the people who we would like to sit on there, and we think it ought to be in the Department.

SENATOR GAGLIANO: Oh, yeah.

SENATOR RAND: So, two things: We think that by changing the procedure to give more emphasis on the municipalities getting involved in the initial stages, so that they don't become the bottom, so they do not become the dragging tail, so to speak, that that will eliminate a lot of problems. And, if there are problems -- and I do not foresee as many as there could have been under the other situation -- then certainly it ought to be the Department of Transportation, with some type of board that we set up that is satisfactory to the Legislature.

SENATOR GAGLIANO: Well, that is what I was trying to get at: What would the Commissioner recommend, if she is ready to make a recommendation? If she is not ready to recommend, fine.

COMMISSIONER GLUCK: I am not ready at this point, because-- We have been kicking around a land use arbitration board for quite a while now with the League. It came into focus as we came closer to this Committee. It was my nagging feeling that we shouldn't be necessarily looking to set something up in another department of the State, which none of us would-- You know, at least you can focus on one place for this, and I think it would afford those people who are waiting for the decision with regard to their proposals or development projects, everything in one area. Therefore, I am not ready at this point, but I am certainly willing, you know, to accept what Senator Rand said. We can talk about it. We'll think about it, and I'll have some suggestions.

SENATOR GAGLIANO: Okay.

SENATOR VAN WAGNER: We have also been joined by Senator Cowan, Vice Chairman of the Senate County and Municipal Government Committee. Senator?

COMMISSIONER GLUCK: How are you, Senator Cowan?

SENATOR COWAN: Very well, Commissioner. How are you?

COMMISSIONER GLUCK: Good.

SENATOR VAN WAGNER: Assemblywoman Smith?

ASSEMBLYWOMAN SMITH: Thank you, Mr. Chairman. What I would like to address, basically, are the needs of the communities, and our concerns. Of course, we are all concerned with what is going to happen down the road. But there are many things that have already happened here before this package of three bills comes to pass. In fact, there are many thousands of units already approved on the books in many municipalities. Our concern, in the Thirteenth District, primarily in this town -- Old Bridge -- and in Middletown, is the fact that the State Planning Commission, in its wisdom, has released a new map that has decided to put very high intensity growth in these two municipalities.

I think the people who live here would take exception to this. In particular, we are the two largest municipalities in this general area, and we find that our access to the roadways now is minimal. No plans have been made to correct this. We have had problems negotiating with the County of Middlesex, in particular, on many, many things. They say it is the municipality's fault, and the municipality says it is the county's fault. Now you're looking at a plan that is going to give more credibility, or more input to the county. We are very concerned down here, because we get nowhere with Middlesex County.

COMMISSIONER GLUCK: I have to tell you, Assemblywoman, I don't-- I mean, someone has to be looking at development of regional significance. What we are doing here is really trying to forge a partnership now between the county

and the municipality and the State of New Jersey, and in that partnership, maybe bringing some kind of common sense, or rationale to bear on the planning process. It is within the purview of every municipality in the State, when they approve of development, to be soliciting, or getting from the people who are going to do the development, some kind of contribution if, in fact, it is an overload on the municipality's roadways. I mean, this has been done in Parsippany to a very great extent, and with great success, I might add. A lot of municipalities have not done that. I mean, there have been court cases where the parameters have been set with regard to that sort of public/private partnership but, nevertheless, it can still be done.

I think the municipalities have to take-- I understand the problem the municipalities have. I understand that the property tax is onerous. I understand that the municipalities have to go out and get as many ratables as they can, because they feel that that lowers, or keeps down their property taxes. The fact of the matter is, Assemblywoman, what we see now is that there are municipalities going out trying to bring ratables in, that thought that that would, in fact, hold down their tax rates, and they are finding, in fact, that it has not, because of the fire, because of the police, because of the children in the schools, because of the infrastructure.

So, we have some municipalities in the State that are scaling back their development of their own volition, because they know they just can't handle any more of it. What I'm saying is, we don't think that economic development and good planning are mutually exclusive. That is not the Department's position. Through these bills, we think it will go a long way toward helping the municipalities and helping the counties and helping the State and the developers, try to reach some kind of a rational approach. This has been tried in a few other states. There is no question but that we are on the cutting

edge here with what we are trying to do -- we are one of five states -- but this kind of planning has been tried in Florida, Oregon, California, with a great deal of success. I think it is the best hope we have.

I know you are overburdened on your roadways now, but there is never going to be enough money the Legislature or anybody could give to the Department of Transportation to take care of all of those problems. We are enjoying a tremendous economic boom. We love the fruits of that economic boom. But, by the same token, there are problems that come with it. I think that each municipality has to take a look at what it is they want their municipality to be.

With regard to the State Planning Commission, just let me assure you that that map is far from final. I think it has been changed 10 times since--

ASSEMBLYWOMAN SMITH: I would sure hope so.

COMMISSIONER GLUCK: Well, if you have been following it, I think you know it is not final. It has been changed many times, and we are still in the process. The Department of Transportation is very much involved in that. We understand that the areas where this very high density has occurred may not-- These municipalities and counties may not want to have it happen. You will have an opportunity, during cross acceptance, on the municipal and county levels, to have input into this plan. It is our hope that the process is going to be very open. The Department is pushing very hard for that, so you don't get the feeling that you can't have the input on the local level, and that whatever you say is not going to make a difference. The Department feels very strongly about that. I think the Commission is coming around slowly to that philosophy.

You have my assurance that that is our philosophy as well, and that we are in there pitching, you know, trying to get as many of your concerns involved in this State planning as possible. But, by the same token, we need a State plan. We

really-- Five years is too late. It's all over. This legislation probably should have happened-- If you talk to people in Mercer County on Route 1, it should have happened five years ago.

ASSEMBLYWOMAN SMITH: Well, we're looking at maybe 20 years of catch-up.

COMMISSIONER GLUCK: That's right. The same thing goes for your district, Senator Rand's, Senator Cowan's. We can't let it overwhelm us. The window of time and of opportunity is closing on this.

ASSEMBLYWOMAN SMITH: Well, what we are trying to look for, basically, is reassurance on the local level, too, that they will have input; that someone is not just going to come in and say, "Hey, this is a mandate."

COMMISSIONER GLUCK: It is going to go to the local level first. The League of Municipalities has--

ASSEMBLYWOMAN SMITH: The time constraints that are there; I mean, the developers that want to build something decent-- In our particular case, within this whole area, it is going to be very difficult to put economic development in. People are still of the opinion, as you said, that there will be a decrease in the taxes for the local municipalities. It just doesn't work out that way, because of tax abatement, and all the other things. For some reason or another, taxes keep going up, even though industry comes in.

However, if you look at the open land here-- You will find on the tax maps, that there is very little land available for economic development to begin with, that isn't already owned by developers for housing. This is the worst of our situation, because people out there are still being promised, and still think that there will be economic development, and there is not going to be any. I think they should take a hard look at it, for this reason more than most. To be able to find a way for people just to transport themselves from here to work, is the most important thing we face at this time.

COMMISSIONER GLUCK: Yes. The mobility -- which is another issue -- of getting people to and from their jobs, and getting people-- You know, as Americans, we think it is our inalienable right to be able to get into an automobile and go anyplace we want within a reasonable period of time. In New Jersey, since we are so densely populated, and we have so many cars on our roads, it is getting to be not such an inalienable right any more. I think -- and we have discussed this at various other forums, and we will be discussing it again -- that people movers and other forms of transportation -- mass transportation -- are going to have to play, in my opinion, a much more substantial role in the future.

Now, when I say the future -- I am not going to be the Transportation Commissioner -- I mean maybe 2020. But we have to start talking about this now. I want all of you on this Committee to have some level of comfort that we in the Department of Transportation have begun this process in-house. What is the future going to hold? What is the best thing we can do for the State of New Jersey which will enhance the quality of life here? How are we going to move people, without just concreting the State from the Atlantic Ocean over to the Delaware, which nobody wants to do? Even the people in my Department don't want to do it. They live here. They understand what the problems are.

You should know that we are really seriously talking about this at the Department of Transportation. We feel the dialogue must begin. If it is going to be a reality in 2020, or 2010, we have to begin the dialogue right now in the '80s. So, we will be back to the Committees again to discuss that aspect. We know you support that, and we are pleased about that. I think it is absolutely essential. You know, we split New Jersey Transit off at one time from the Department of Transportation, and there was wisdom in doing that. But in the last couple of years, the Department and New Jersey Transit

have begun to function a lot closer together, and really and truly, they have to, because the problems are intertwined. There is no separateness here. I mean, we can work together to resolve some of these problems, and that is the kind of thing we have to do.

ASSEMBLYWOMAN SMITH: I would like to finish up with the fact that we have been working with you, through the Assembly Transportation and Communications Committee and, of course, the Senate Committee. We worked together on that, too. We are looking forward to working further on this.

COMMISSIONER GLUCK: We look forward to your support in this area, Assemblywoman. Thank you.

SENATOR RAND: Maybe you want to put the Turnpike in her Department.

SENATOR VAN WAGNER: Yes. (laughter)

SENATOR GAGLIANO: How about the Port Authority of New York and New Jersey?

SENATOR RAND: No, that is going a little too far. Only transportation -- the Expressway, the Parkway.

SENATOR VAN WAGNER: Commissioner, I think we could beat this thing to death forever.

ASSEMBLYWOMAN SMITH: Do you mean that you're ready to stay for a month? I have a five-bedroom house, and I only live down the street.

SENATOR VAN WAGNER: You know, obviously there are development problems in the entire State of New Jersey. Part of that problem, as you point out, from the fact that we are going through a period of prosperity. I'm sure that should the pendulum swing the other way, we will be conducting hearings, talking to other commissioners, finding out how we can get more people to come to the State of New Jersey.

I should also point out -- and I know Senator Cowan is very concerned about this -- that as our Hudson community develops along the waterfront there, which is going to have a

decided impact, whether we believe it or not, on the entire Monmouth/Middlesex greater metropolitan area ultimately, because those people will have to have a place to live-- As that develops, there are going to be even more acute problems with getting people from the western part of the State, and we will, in fact, begin to take a look at stronger regional planning models.

It is my feeling, just as the Chairman of the Senate County and Municipal Government Committee, that we would like to have the municipal and county planning components in at the outset of the development of the plan. We think that makes a lot of sense. We think it could, in the long run, remove a lot of the contentiousness that could take place, and perhaps eliminate the necessity for final arbitration.

I would like to thank you for coming today. I know you have been on this road show for a few months.

COMMISSIONER GLUCK: Well, that's okay. I have to say, if I may, Mr. Chairman, before I leave, that I really appreciate the support from both of your Committees. You are the elected leaders of this State. You understand. You are very close to your constituents, and you understand the problems. I know that at times it is difficult to say no to people who, you know, come to you, but I know, from speaking to each one of you individually, of your concerns. The Department appreciates that. We know we have people to work with who understand what we are trying to accomplish. We know you will tell us when you think we are wrong, but you will also support us when you think we are right. We are really deeply appreciative of the relationship we have been able to have with you, and the trust between the Department and the Committees. We thank you very much.

SENATOR VAN WAGNER: Thank you, Commissioner.

I would like to call now, if I might, Ms. Barbara York, Chairwoman of the Old Bridge Township Transportation

Committee; also, Council President Gene Dunlop, who is here with us. Councilman Dunlop, do you wish to join Ms. York? (affirmative response)

B A R B A R A Y O R K: I am representing the Old Bridge Township Transportation Committee. Our Committee agrees on, and we have suggested, the establishment of a partnership between State, county, and municipalities, for many reasons. One is, we find in this town that we have a lot of jurisdictional problems pertaining to the maintenance of our already overburdened highways. We don't seem to be able to get together on who owns what, and who maintains what.

We strongly suggest that something be tied into this, whereby we could get together with the municipalities, probably in a series of meetings, to settle jurisdictional problems. This creates a lot of difficulty for the traffic divisions, etc., trying to find out who is going to take care of this intersection, because it doesn't belong to the town, the State says it is not theirs, and the county says it is not theirs. We bounce back and forth. It causes delays. And then finally, in many respects, I know our township has gone out and swept intersections, etc., because of these problems.

I have spoken to Carolyn in the past, and have gotten a lot of cooperation from her pertaining to this, but I think it is time we get these issues straightened out. I know that other municipalities also have this problem.

Our Committee also feels that municipalities should be notified at the inception of any plans that pertain to their communities. In the past, it seems we were the last to know. We never knew any of the plans; we never knew any of the designs, until they were already drawn. Then they would come in to us to present what they had, and almost say to us, "This is what you are going to get." When it pertains to our townships, we should have input on what the State or the county is going to do.

Also, New Jersey Transit is talking about building some type of a parking facility at Ernston (phonetic spelling) Road. We are still in discussions on that, and so far it looks like we are starting to come to some type of a compromise. The Transportation Committee would like very much to see improvements made to Route 9, Route 34, and the Perrine (phonetic spelling) Road intersection, tied into any parking that is put up there. We already have a very heavily burdened intersection there, with no immediate plans for any improvement. We feel that if we are going to be drawing from outside our community for parking, that some type of improvements should be tied into this. We would like to see all of this come into this Transplan. Gene?

C O U N C I L M A N E U G E N E R. D U N L O P: I think a coordinated effort, as has been brought up here today, would be greatly appreciated by Old Bridge, because we are a rapidly growing town. The whole southern basin is growing, and transportation needs are a necessity for Old Bridge, as well as the rest of the county. We would appreciate all the cooperation we can get.

Thank you.

MS. YORK: Thank you.

SENATOR GAGLIANO: Does Old Bridge, through the Transportation Committee, endorse all three bills basically, as outlined by the Commissioner this morning?

MS. YORK: Well, as far as financing, that is out of our jurisdiction.

SENATOR GAGLIANO: No, but I mean, do you favor all three of these bills? As the Commissioner said, this is sort of a cutting edge. This is kind of new stuff we're doing, and we would appreciate knowing whether or not the municipalities favor it.

MS. YORK: Yeah, with some minor changes in it.

SENATOR GAGLIANO: Okay, thank you.

SENATOR VAN WAGNER: I think, if I heard you correctly, Barbara -- and pretty much in line with what Senator Rand said -- one of your recommendations would be that the municipality be included at the outset of the planning process.

COUNCILMAN DUNLOP: Absolutely.

MS. YORK: That's right, because we, in this township anyway, seem to have run in the past into quite a few problems. Sometimes we weren't even notified of any plans, at all. Then at other times, the die was cast before we were called in. I don't think that is fair to this municipality, or to any other municipality. It impacts on a municipality. The people in the municipality should have a say on what is going to happen to their community.

SENATOR VAN WAGNER: Let me ask you a hard question -- maybe Councilman Dunlop -- if I might. I am going to ask the Freeholder from Mercer County the same question when he comes up here. Get ready, Skip.

This concept, as you know, is basically a regional planning concept. No matter what we tend to say up here, what really occurs is that the planning process, over which now municipalities have almost complete control-- It takes that process and moves it to another level -- all right? -- in specific instances, as outlined in the legislation. I think you heard Senator Gagliano talking a little bit about the component parts of the criteria. For example, if Old Bridge -- let's use Old Bridge as an example-- Let us say that you were planning a major commercial project, widely supported by the community, based on the fact that it would have the appearance of providing a great deal of ratable relief, if you will, and it was in excess of 100,000 square feet, so it was well within the access standards required by the Department in this legislation. Now it is going to be considered for regional impact -- okay? -- and the outcome of that was a recommendation, I guess through the Department basically, or on

the basis of the transportation district, that that project had to be scaled back.

COUNCILMAN DUNLOP: I think that in view of the taxes that are paid in Old Bridge, Senator, the town and the Council -- our legislative body -- would have to resist that improvement, because we are overtaxed here in Old Bridge now. We are not receiving any relief from the State; we are not receiving any relief from the Federal government. When I have a 100,000 square foot ratable here that can reduce taxes in Old Bridge, I think everyone has to look at that very seriously. We are trying to reduce taxes, or hold taxes at a fair amount. What Old Bridge has had now for the past 20 years, are constant increases in taxes. When I have a \$100,000 ratable, I think regional should look at that very seriously -- the regional plan.

SENATOR GAGLIANO: There you go.

SENATOR VAN WAGNER: There it is. There's the rub, as they say in the--

COUNCILMAN DUNLOP: But I think, Senator, you are aware that we do have perhaps a \$100,000 ratable. We have possibly the loss of a lot of ratables on Route 9 in Sayreville, due to the Route 9 improvements and the proposed parking lot. Now, that is one issue I think the town certainly should be involved in. I don't need 1400 cars up there where I can get a \$100,000 ratable. If I can take those 1400 cars and put them in various locations and still make it advantageous to the residents of Old Bridge, and perhaps to people outside of the town, I think those are the things we're saying we should try to work out. Don't just come up the road, and say, "Here it is, fellows; you're going to eat it."

MS. YORK: Yeah.

SENATOR VAN WAGNER: What I am trying to say to you is, the concept of the Transplan, as it is outlined, would, in effect, although involving you at the outset in the planning

SENATOR GAGLIANO: I thought we were in the process of appropriating the funds necessary to acquire the right of way for an overpass. I realize that is a long way away, but I--

SENATOR VAN WAGNER: We are.

SENATOR GAGLIANO: --thought the appropriation was on its way.

SENATOR VAN WAGNER: It is, but--

SENATOR GAGLIANO: So, that is part of the plan.

SENATOR VAN WAGNER: --I think it is still in the design stage.

MS. YORK: Yes, it is, but what we are trying to say to you, by the same token, is, if some of these things we have asked for in the past, which have not been done-- You know, there are other things that may have to be addressed first. But we have already asked for these things. Then a ratable comes down the road in that very same area. We understand regional impact has a lot of prudence to it, but what we feel is, we asked before, and now we are getting something coming down the road for Old Bridge. We want also to be taken into consideration that we mentioned this before this ratable came along, and nothing was done there. Now the ratable is here, and nothing is still getting done. And now you are going to tell us we can't have the ratable.

SENATOR GAGLIANO: Well, the other part of it might be, not that you wouldn't have the ratable, but I think the theory here is that the building may be built. However, there will be an impact a quarter of a mile down the road, and we will need a new intersection; we'll need widening of roads, left turns, traffic signals, and all that. They may ask that developer to pay a part of that expense.

MS. YORK: Oh, I agree with that.

SENATOR GAGLIANO: The developer may back off voluntarily, thinking, "Well, I don't want to spend that extra \$300,000 or \$400,000 on an improvement." That is where I think the arbitration is going to really be a problem.

SENATOR VAN WAGNER: Yes, I believe so. Am I right, or is it primarily--

SENATOR RAND: It's primarily a road and highway situation, but we are looking at some things now in the TDD. Again, we are fundamentally interested in highways, because that is where the congestion is. New Jersey Transit has put out a northern study, which is now available. For those of us in the south, they are going to start the southern study. There is a brochure which will tell you what they are going to do in the northern part of the State. It was just released just some weeks ago. I don't know if there is anybody here who might make mention of it, but, Assistant Commissioner Crawford, you might want to state something on that study on the northern part of the State.

ASSISTANT COMMISSIONER CRAWFORD (speaking from audience; no microphone): I think, Senator, that that is something that would be worthy of full discussion in and of itself. I think part of the answer to the question that was asked is, one of the things the bill does recognize is that a possible way of mitigating the traffic impact is through public transportation improvements, including the tie-in to new or modified rail stations, where that is a suitable alternative to some of the highway needs.

SENATOR VAN WAGNER: If I might, Commissioner-- I don't like to jump the gun, in effect, but I attended hearings in Middletown just recently on traffic difficulties that were occurring and reoccurring throughout the area, based on the attractiveness of this area, particularly in its proximity to the metropolitan area. I was going to say, Mr. Chairman, with your indulgence, one of the things I recommended at that hearing -- and I spoke about the Transplan legislation that was pending -- was that perhaps a stronger mass transit component be built into the Transplan planning process; rather than just a reference to it as a mitigating area, perhaps a direct

you. We are into the afternoon, so good afternoon to you and to the members of the Joint Committee.

My name is Skip Cimino. I am a member of the Mercer County Board of Freeholders. I also serve as Second Vice President of the New Jersey Association of Counties. I am here today with Morris County Freeholder Director Carol Murphy, to present our Association's views on the Transplan proposal.

In order to develop a recommended policy on county planning issues, NJAC has convened a special committee comprised of both elected county officials and county planning directors. I had the opportunity to co-chair that committee, along with Ocean County Freeholder Director George Buckwald. Freeholder Murphy, who joins me here today, has served as a very valuable member of that committee. My co-chair, George Buckwald was unable to make it today, and expresses his regrets for being unavailable.

As a result of our committee's discussion and recommendations, the Board of Directors of the New Jersey Association of Counties has adopted a policy statement outlining our major concerns regarding Transplan. A copy of that statement has been provided to you. The policy statement is aimed specifically at the county and municipal partnership bill -- S-2626 -- which is the cornerstone of the Transplan package.

With respect to the State Highway Access Management Act and the Transportation Development District Act, the County Planners Association has submitted a position paper with comments on these two bills. NJAC supports the position of the county planners, and we encourage you to look closely at their suggestions.

While we are generally supportive of the access code and the TDD bills, we feel they should be firmly tied to the county-municipal planning partnership which is, in fact, the central ingredient in Transplan. The Department of

boards and master plans. Developments of potential regional significance must conform to county master plans, or we are just wasting our time and our money. Worse yet, growth will continue to be as poorly managed as it is today. Conformity to county master plans is particularly important in the areas of transportation, sewage, water supply, and drainage. These are logical areas with which to begin the regional planning focus. To that extent, we agree with the League of Municipalities which, in fact, has already said that.

If we agree that counties should have master plans and that developments with regional impact should conform to county master plans, or at least certain elements of a county master plan, the question then becomes, how do we review development applications to determine: a) whether a development has regional significance; and b) if it has regional significance, does it conform to the county plan? I understand the suggestion has been made that municipalities continue to review development applications, as is the current practice. Please forgive the metaphor, but that is a clear-cut case of the fox in the henhouse.

Again, if we are at all serious about regional planning, then we must allow the regional entity to conduct the review. I would agree that municipalities should have a full opportunity to provide input to the county planning process. But, in the final analysis, the decision-making authority should rest with the county. If the county is responsible for developing a regional plan, then the county must also be responsible for applying that regional plan to development activity. Otherwise, we will simply be spinning our wheels.

I will be happy to entertain any questions on the statement at this point, or simply turn it over to Freeholder Director Murphy. Freeholder?

F R E E H O L D E R C A R O L J. M U R P H Y: Thank you, Skip.

power nearly always produce controversy. This case will be no exception. But we should not concentrate on intergovernmental warfare; instead, we should focus on a vision of our future, and perhaps that will help us to make the tough decisions that are needed now. New Jersey is too densely populated and is growing too rapidly to continue the same planning policies. We can no longer afford our love affair with home rule. Despite the perceptions of political liability, we really must begin to make decisions on a regional basis.

I could not agree more with my colleague, Skip Cimino, that review of development applications should be done by the county. Gentlemen, may I ask you, what is the point of requiring counties to prepare master plans if we are going to have municipalities interpreting those plans? Certainly, we feel that small-scale development must remain, should remain the province of local planning boards. But preliminary county approval of large-scale development proposals is an absolute must.

I would like to take a moment to comment on the League of Municipalities' suggestion that land use arbitration boards be created as a way to settle disputes between counties and their constituent municipalities. With all due respect, I find it preposterous that the League would prefer to have planning decisions made by a faceless board, removed from public scrutiny, rather than county planning officials who are appointed from the local municipalities, and who are chosen to represent regional interests. I would like to register my sharp opposition to the proposal for land use arbitration boards. They will be costly, and they will lead to harmful delays in implementing regional planning efforts. The New Jersey Association of Counties believes -- and I wholeheartedly concur -- that citizens want county officials to provide leadership, and they want them to provide accountability on growth management issues. The use of arbitration boards will only serve to undermine that clear objective.

FREEHOLDER CIMINO: I'm sorry, Senator. Senator Van Wagner as well, pardon me. With regard to that issue, earlier on, in a discussion by the Association, we had asked in the original legislation that was proposed, that those numbers be less. In our discussions, as well, and I believe we have articulated this in our policy statement -- am I not correct, Carol? -- that the numbers also be shrunk down in terms of size.

FREEHOLDER MURPHY: If I may pick up a bit, when we were sitting in session and working through this plan as a committee of the New Jersey Association of Counties, one of the planners who spoke to us recognized that within his county, a development of the size -- of the numbers that were incorporated in the original Transplan were so great that he might never, ever be involved in the planning process of what would occur in a municipality, but that the county would bear the responsibility for many of the services which would be developed through that kind of a development, in which they again would have no influence whatsoever.

SENATOR VAN WAGNER: That's a very good point.

FREEHOLDER MURPHY: Thank you.

FREEHOLDER CIMINO: Point number five in the statement that we, in fact, have made indicates that we would like to see the threshold be 200 units and 50,000 square feet of non-residential floor space.

SENATOR VAN WAGNER: That's a good question and a good point. I want to just follow-up on that, if I may. The McEnroe legislation which has been introduced in the Senate--

FREEHOLDER CIMINO: It's Van Wagner, is it not, Senator?

SENATOR VAN WAGNER: No, no, it's McEnroe. Senator Gagliano keeps accusing me of being testy. I'm not, really.

SENATOR GAGLIANO: He's being testy when he mentions it.

it to happen. The county would have to pour in tremendous sums of infrastructure dollars, at a point where we were not in a position, and yet we did not have the necessary tools and teeth to effectuate the appropriate discussion and dialogue.

So, I think there has to be an increase in that particular area.

FREEHOLDER MURPHY: Morris County did send a Freeholder to testify for the McEnroe bill. We have probably not heard the end of it, because it was a challenge, or was perceived as a very strong challenge to home rule. What we were also offering that was not perhaps heard, was that the county would stand as the bad guy, if you will, for those municipalities that do not, quite often, have the wherewithal to remove themselves from some of the development -- things that are going on for them.

Local constituents do see a new development and the ratables as a tremendous bonanza, which is a short-term benefit. What they don't see is the long-term detriment of any large development in your town. You may get money right away and be easy off. That is the first money coming in. But, once that development is in and the service requirements are really hitting you hot and heavy, you are spending more, more often than not, than you are making on it. It is that long-term thing that the county can protect a municipality from having to bear, if we are allowed to do so. At the moment, there is no way whatsoever in which we can get in and try to help in that kind of a situation, or make it easier for the local elected official to deal with what he knows will be the negatives long term, but quite often can't get out to the community.

We stand ready to do that kind of thing. It is part of what goes with the territory, and we recognize that.

SENATOR VAN WAGNER: What would you think of tax sharing?

FREEHOLDER MURPHY: Amen.

SENATOR VAN WAGNER: --including solid waste.

FREEHOLDER MURPHY: But, don't you feel that this is the beginning, having conversations, dialogue, things like this?

SENATOR VAN WAGNER: I was very happy to see this, I have to be honest. I have been a regional planning advocate for some time. I have been active in reviewing and going to meetings of the Regional Plan Associates, which goes beyond just within the State of New Jersey, but looks into tristate planning. Going back through my 14 years in the Legislature, I haven't always been applauded for it, but obviously it is finally an idea whose time has come because, as Commissioner Gluck said, what has brought us to this point, really, is prosperity. And the sudden recognition is, "Hey, we can't keep doing this." We are the third smallest state in the United States in terms of land area, and we are the hottest place in the nation. That could change. You know that. We have seen it change before.

Are there any questions? (no response) Thank you very much.

SENATOR GAGLIANO: Thank you.

FREEHOLDER CIMINO: Thank you. We appreciate the opportunity to come before you today.

SENATOR VAN WAGNER: I thank you for coming. Your remarks were cogent and to the point.

Mr. William Dressel, Jr., Assistant Executive Director, New Jersey State League of Municipalities.

W I L L I A M G. D R E S S E L, J R.: Thank you, Mr. Chairman. I appreciate the opportunity to be here. I have a prepared statement. Staff, I am sure, handed it out to you. I have extra copies at the table here.

SENATOR RAND: Are you satisfied that the bills are in shape now? Are you ready to--

set forth an 18-month process for achieving consistency. Attached to my written testimony you will find that process for achieving consistency. That is not to be confused with a cross acceptance procedure we talk about when we refer to the State Planning Commission. This is only for achieving consistency between the four major infrastructure areas of water supply, sewerage, drainage, and transportation. Based on what I heard this morning from Commissioner Gluck, there is no disagreement between the League and the Department of Transportation on that.

Our second point is, the League believes that consistency between the county master plan and the municipal plan should involve only the four infrastructure development areas of water supply, sewage, drainage, and transportation.

The third proposal--

SENATOR GAGLIANO: What else is there?

MR. DRESSEL: Pardon? Recreation, other open space. The third tentative proposal, and probably the most controversial, is the creation of the land use arbitration board. We believe this would resolve those inconsistencies between the county and municipal IDPs -- Infrastructure Development Plans -- which were not resolved through the 18-month cross acceptance mechanism. Our Committee believes that this third-party approach is far better than allowing the county to unilaterally enforce consistency.

Unfortunately, through this process of trying to bring everything together and to come forth with consistency, there are going to be conflicts. Conflicts are going to be inevitable. We believe an objective voice is necessary in making a final decision. Now, we agree with Commissioner Gluck that the concept is a sound one; however, it may need to be fine-tuned. We are not wed to any one structure; we are not wed to putting it in any one department. We are certainly open to suggestions, and we will continue to work with the Department and work with the counties and their suggestions,

and we are going to provide that technical staff. Of course, that goes along with money. Second, we need money for our road aid for municipalities, and that goes along with the Commissioner's request that the Legislature has the ability to provide money. We think the counties ought to get the same consideration.

We do want to explore the avenue, and I guess we touched upon this. We do not want to have a confrontation between the counties and the municipalities. We want to review the avenue that maybe there is a road to go that is a parallel road; a road which puts them on the same footing. I think that is the avenue we will explore. We don't want to make superlords of you, and we don't want to make superlords of the counties. But there ought to be a position where both have a right to contribute, and certainly review and go through the process on an even footing. I think we can accomplish that.

I don't want to put us into a corner which says that this is the way we are going to do it, but certainly we are going to look at that. If we start out in the beginning and-- We have chaos now, and anything we do will be an improvement over what we have today. But, one of the things that we don't want to do, is jump where we are going to have a fight between everybody -- or among everybody. So, what we are trying to do, is do it in logical steps. We don't want to insult the municipalities, who have, by law, the right to review on their municipal planning, and we certainly want to give the counties the input.

So, if we neither make you happy, nor the counties -- and that may very well be-- We are going to attempt to neither insult you nor insult the counties. We are going to try to do this on an even footing, where at the same time even DOT has that right of review, and hopefully we can bring that into a perspective that if we do have some type of arbitration, that it is used in very, very few instances. I think if we have a

just easy, where you are going to throw this guy so much, and that guy so much. The Department is certainly working on the procedure -- all over the country this is, not just New Jersey. We have to be very careful, and we have to put language in, which is going to define what we are going to do and how we are going to charge, and so forth and so on.

I don't think we are going to have the liberty of saying, "Well, you have to give us so much. You know, you have a big place here," and so forth. We are going to have to have legitimate, rigid standards of what we do. I guess I wanted to really get that out, so that if anybody is waiting to split up a pie because we are going to pass a law, they just can't do it. The law doesn't allow us to do it.

MR. DRESSEL: That's right.

SENATOR RAND: The law is very specific.

MR. DRESSEL: I understand.

SENATOR VAN WAGNER: Senator Gagliano?

SENATOR GAGLIANO: I only had one question, Bill, and it is still bothering me. I would like your best definition of what would be the obvious situation where the inconsistencies come up and we would need this arbitration panel? Just give me an example or two, as you see them.

MR. DRESSEL: Well, there may very well be a local plan -- a master plan -- that calls for a high concentration of industrial development, you know, in a community. The county plan may very well call for something else. I think we have to go back to the four infrastructure areas and see whether or not that proposed, whatever it is -- company, whatever -- will have the adequate capacity. I think there is going to have to be give and take between the local officials as to whether or not it meets the transportation requirement, the sewer requirement, the water, and whatever. I think there has been a recognition by local officials that sometimes -- and I think the Commissioner alluded to this -- that, you know, yes, it is a

SENATOR GAGLIANO: Thank you.

SENATOR VAN WAGNER: Senator McManimon?

SENATOR McMANIMON: I have some real serious concern about the third issue; that is, your arbitration board. I just think you are creating another layer of bureaucracy. I see a lot more problems. It looks like it is a deliberate delay in action. In the meantime, we have serious problems out on our main corridors, because of the parochial attitude of the municipalities, which has actually created the spin-off effect, and has actually created, how do we, as legislators, and how does DOT take corrective measures, and say, "Hey, we are going to help to alleviate these serious conditions which presently exist," if we are going to constantly maintain the parochial attitude? It's tough; it's a tough issue. But I think the realities are there now, and we have to face up to them. We can't turn our backs any longer.

If you drive Route 1 from Trenton to New Brunswick-- Try to drive between 7:30 and nine o'clock in the morning. Try to drive between four o'clock and seven o'clock at night. I mean, it us utterly ridiculous. These problems are a spin-off effect of the development that has taken place. No specific real controls, because of the individual parochial attitude of the municipalities. I think the time has come when the realities have to be faced.

You know, it's amazing. People, I think, have forgotten. When the Federal Open Space Program came into effect and the State Green Acres, an individual municipality had to project and had to present a layout to the county. Then that was incorporated into the overall county master plan, before you could get any Federal approval of any moneys coming forward. This may be an avenue that we may have to really take, if we really want to move the type of program we are looking at here with a regional approach. I think we are going to have to face that reality. I was hoping that the League

SENATOR McMANIMON: I notice the Commissioner stated they believed in a concept of arbitration, but they are not sure whether this form is the proper approach.

MR. DRESSEL: Yeah, and we are willing to look at it.

SENATOR McMANIMON: I think it is an area that we are really going to have to face up to.

MR. DRESSEL: Yes, sir, I agree.

SENATOR VAN WAGNER: Thank you, Mr. Dressel. I just want to echo, to some degree, Senator Rand's comments, that we on the Senate County and Municipal Government Committee are also intent on having a working session with the Transportation Committee, to look at primarily the land use planning prospective. As I mentioned, we are also interested in doing whatever we can to strengthen the mass transportation component.

So I think we are all generally, conceptually trying to move in the same direction.

MR. DRESSEL: We look forward to working with you and providing whatever input we can.

SENATOR VAN WAGNER: Well, you have before.

MR. DRESSEL: Thank you.

SENATOR VAN WAGNER: Thank you, Mr. Dressel. Next we will have Mr. Calvin Edgehill, Transportation Planner, Essex County Division of Planning. Mr. Edgehill?

CALVIN EDGEHILL: Good afternoon, Committee. My name is Calvin Edgehill. I am a Transportation Planner for Essex County, responding on behalf of the county. I have a prepared statement, and some copies for people who would like to take them.

SENATOR VAN WAGNER: Yes. Dr. Manoogian (Committee Aide) will take the copies from you, Mr. Edgehill, for the Committee, so we can follow your remarks as you make them.

MR. EDGEHILL: The County of Essex has long supported the concept of regional coordination of planning efforts, in order to provide for orderly development. While the Transplan

SENATOR VAN WAGNER: Excuse me. Mr. Crawford, are you ready for this, because he is asking all the questions? Okay, go ahead. I'm sorry, Mr. Edgehill.

MR. EDGEHILL: One of the things we are trying to figure out with the rezoning is, what are we actually rezoning? Are we rezoning a district? Are we rezoning a corridor? Are we rezoning a lot, or rezoning a block? That is one of the major issues we have with the amendment.

Sixth, this package requires a very involved task on the part of each municipality and/or county. However, we do not have the expertise or staff to handle an effort of this size. We're wondering, are we going to be assisted by the State in the implementation of this plan, by the staff, by more funding? Is it going to be at the county level? Is it going to be at the municipal level?

Seventh, what kind of assistance will we get from the State on the land use arbitration board? Where will the funding come from for the land use arbitration board? Does that come from the State, and how are those fees allocated?

I would like to thank you for the opportunity to present this testimony.

SENATOR VAN WAGNER: Mr. Edgehill, apparently you have asked all the hard questions. You certainly applied yourself to the practical questions, and the tough ones. Senator Rand?

SENATOR RAND: Mr. Chairman, first of all, let me congratulate Mr. Edgehill, because he did ask the hard questions. When we put these bills up, you are entitled to all of the answers. We are going to have to answer your questions, but I don't think we can answer them today, very frankly. There are some we can; there are some we can't.

We agree with you that you need technical assistance, and that you need more money, and that it ought to be spelled out and everything else. But what you did give us -- and I appreciate it very much -- was an outline for us to consider of

overall regional system? What this begins to address is the fact that these infrastructure issues have a much broader perspective than simply the impact on a single street, a single particular drainage location, but, in fact, may impact a major drainage basin of much broader scope.

SENATOR VAN WAGNER: Mr. Edgehill, would you like to pursue this, or may I borrow your question again?

MR. EDGEHILL: Yes.

SENATOR VAN WAGNER: Okay, thank you. What happens in a developed corridor that has no allocation credit?

ASSISTANT COMMISSIONER CRAWFORD: In a developed corridor that has-- First, I am not sure that the concept of allocation credit is one that I would agree with. Let's talk about it.

SENATOR VAN WAGNER: Oh, okay.

ASSISTANT COMMISSIONER CRAWFORD: If a developed corridor today had no transportation capacity existing, or minimal transportation capacity existing, then a major development -- a development of regional impact -- would have to address the question of providing some form of handling that transportation need. I think we have addressed that there can be several. But, consistent with this, is also the need for the State to make some investments at the same time, which is why we have suggested that there ought to be a provision that allows the State to match local investments, where that is appropriate. That, in fact, was part of the Trust Fund renewal proposal that we submitted. In this bill, it does provide that if the developers are making investments, the State can match those as part of its program. It can also advance funds, in certain cases where the moneys will be collected over time, to allow for improvements to be made to be able to provide that additional capacity.

I think the last thing along those lines is, the bill also encourages non-highway -- or non-traditional highway forms

MR. EDGEHILL: Essex County has a problem with roadways of that nature. We can't seem to figure if there is a true model -- a true value we receive from a model of that portion of the package.

ASSISTANT COMMISSIONER CRAWFORD: Mr. Chairman, if I may, I think that is the very reason we have suggested the transportation development districts are a suitable alternative, where those kinds of specific problems exist today, so that a plan can be developed that establishes what would be the eventual network that would support the entire region, rather than trying to address a specific location.

SENATOR VAN WAGNER: If I might, though, Jim-- May I borrow, Calvin? I think what he is saying to you, though, if I understand what Calvin is saying -- what Mr. Edgehill is saying -- is, that's fine. I think he agrees with you, but I think he is saying, how, in fact, does the county or municipality determine what fees, what assistance, and where are they going to get their assistance? Will they, in fact, be provided staffing by the State? Will they make the determination? If, in fact, there is a loaded corridor, will they, in fact, be prohibited from entering any kind of planning mode? Am I right?

MR. EDGEHILL: That's right.

SENATOR RAND: Well, that is in the bill. That is very specifically in the bill. We address that. Very frankly-- First of all, you have to accept one thing: We have a chaotic situation. Second of all, the transportation development districts are not mandatory. They are permissive, which allows a municipality, or a county, to join in, because they know it is to their advantage to solve their problems.

Now, the fees are not spelled out; I made reference to that. We can't spell out the fees, but what we are going to do is adopt ordinances which are going to assess development fees and, again, they are going to have to have quantifiable standards, vehicle trips generated, square footage occupied,

These three bodies of the county endorse, and are on record by resolution of endorsing the Transplan legislation.

I have been before the Senate Committee regarding some of the comments we have in light of the endorsement, and I would just like to highlight these comments for the record today, in view of the endorsement we have given this legislation.

Under the municipal-county planning partnership amendments, we want to emphasize the need for close coordination with the development, and as it is developed, the State planning and the Redevelopment Guide Plan that is now being done by the State Planning Commission. We feel that as time has gone on, and now that Transplan is at the state it is, and the State Planning Commission's effort is at the stage where it is, that there is opportunity here to try to tie the two together, because one certainly can serve as an implementing tool to the plan. I think these have to be closely coordinated.

In the cross acceptance process, which the State Planning Commission is going to require counties or bodies which agree to do so-- There is the opportunity to work very closely with the municipalities, with the State, and with the private and public sectors in some of the concerns that were raised here previously, both this afternoon and this morning.

Also under the partnership act, I do support -- the county supports -- the need for seed money, because there is a tremendous effort that is being imposed upon the counties in this regard, and the concern raised by the counties, not only today, but in past hearings, has been, how is this to be done? The Commissioner this morning indicated \$40 million to municipalities, and \$20 million to counties. All I can add is, we will take all we can get. However, I do raise this point: I hope when the Commissioner gave this testimony, she did not

We wish to say, the Legislature should also consider transportation improvement districts -- similar type arrangements for not only transportation, but consideration to storm drainage, to sewerage, to water supply and quality, as well as -- and I hate to bring the topic up, but we are all aware of it -- solid waste. We feel that a district type arrangement could greatly serve the municipalities, the counties, and the State, if this type of arrangement could be done also for these other facets of planning.

SENATOR VAN WAGNER: Mr. Ververides, may I interrupt you, and I apologize for doing this?

MR. VERVERIDES: No, we're here to rap.

SENATOR VAN WAGNER: Are you suggesting that in using this concept, that we expand the model, so to speak?

MR. VERVERIDES: That is correct; that consideration be given to that as well -- to the areas of water, sewerage, solid waste, and what have you.

SENATOR VAN WAGNER: Do you think they should be definable State responsibilities, or should they--

MR. VERVERIDES: I think they should be definable to the extent that at least legislation should be established so that there is a mechanism in place where counties or regional bodies could undertake such planning.

SENATOR VAN WAGNER: But, would you place the ultimate decision-making responsibility for those kinds of outcomes at the State level?

MR. VERVERIDES: I would say they would be placed at the county level, as established with the transportation development district.

SENATOR VAN WAGNER: And 326 under the Solid Waste Planning Act?

MR. VERVERIDES: That is correct.

SENATOR VAN WAGNER: Do you agree that that is where they should be?

the Legislature, responsible, primarily, for sewer and water, with some municipal and county input. Now we have the opportunity to tie those kinds of things together.

I agree with Senator Rand that we certainly can't do it in this three-bill package. But I just hope -- and your remarks seem to be driven toward this goal -- that we make a very strong commitment to the coordination of all kinds of infrastructure developments that have to be involved, so that if we, in fact, need a pipe to interconnect water systems with one part of the county, or one part of the State and another, we don't have to tear the road back up after we have gone through millions of dollars building it. And then find out that there is a pipe line and system that we have to run to get from the interconnections that are required to supply water to an area that perhaps suddenly becomes subject to a transportation development district, or part of the urban growth corridor that the State Planning Commission has designated, when we are, in fact, as a stated goal, attempting to control development.

You know, we have what seems to me, if I might, Mr. Chairman-- There are a lot of conflicting goals here. There are goals, in some cases, by regional planners to control growth and, at the same time, there are goals to make sure that development is coordinated in terms of infrastructure needs which, in turn, promotes growth. I think we have a very difficult balancing act to deal with here. I know we are going to hear from builders today, in a few minutes, who are going to have a different view of this whole process altogether, I am quite sure.

MR. VERVERIDES: I'm sure they will.

SENATOR VAN WAGNER: I'm sorry, Mr. Ververides.

MR. VERVERIDES: That's perfectly all right, Senator.

SENATOR VAN WAGNER: I thought your remarks were rather interesting.

an opportunity there, because we have open area in which to make the improvement.

But, most of the areas where highway improvements are necessary are beginning to affect the already built-up land around the counties. We feel that alternatives have to be sought out: Transportation systems, management strategies; for example, improvements at major intersections, with signalization, with left turn lanes, with double left turn lanes, and so forth. These are considerations that could be considered physically as immediate improvements.

But, beyond that, we think that more serious emphasis should be placed in Transplan to ride sharing, van pooling, and mass transportation. I am happy to note that last night in our county, North Brunswick Township adopted an ordinance which is going to require new office complexes and large developments to consider ride sharing, van pooling, and parking space advantages as part of the development -- an integral part of that development -- as it is presented. This is the type of thing I think we have to look forward to, because the mass improvements to our highways, as are called for in our area, for example, Route 1, in Morris County Route 10-- I think these are long, long-- They are going to be a long time in coming. By the time we are able to get those improvements in these particular corridors, traffic is just going to stop us to a standstill. I feel we've got to begin looking at alternatives.

Finally, the emphasis I want to make in closing is coordination, as you indicated before, Senator Van Wagner. This is the coordination between the counties, the municipalities, and the private sector. The County Planners Association, which is made up of county planning directors and county planning professionals from throughout the State, has constantly been presenting its case before the Senate Committee, the Joint Committee, and also the Senate and

necessity for coordinating other areas of planning. Thank you very much, sir.

MR. VERVERIDES: Thank you.

SENATOR VAN WAGNER: Are there any other questions from the Committee? (no response)

ASSISTANT COMMISSIONER CRAWFORD: Mr. Chairman, may I just make one statement? On August 3, there was a meeting with the County Planners Association and the County Engineers Association. I don't think Mr. Ververides was there, but there was that kind of a meeting on August 3.

SENATOR VAN WAGNER: Were you aware of that, Mr. Ververides?

MR. VERVERIDES: No, I was not. Sorry. If I may, Senator, I don't mean to bicker about this. I am just trying to lay the emphasis here that coordination is necessary.

SENATOR VAN WAGNER: Yeah, I think your point was--

MR. VERVERIDES: The point I was making came from a meeting of the County Planners Association, which we held in Bayville about a week and a half ago. The sense I got was that this is yet to be done. There was mention -- I'm sorry; I am recalling as I am talking here, and I may be corrected, Jim -- that there was a meeting of the Engineers Association, but again, I don't recall us having a meeting per se where we would sit down together and try to work out our comments or observations.

SENATOR VAN WAGNER: He may be talking about a workshop meeting.

MR. VERVERIDES: That is correct.

SENATOR VAN WAGNER: A working session meeting, I guess.

MR. VERVERIDES: That is correct.

ASSISTANT COMMISSIONER CRAWFORD: This was a working session as it was set up. I think the problem was that it was the Executive Committee of the County Planners Association and

which is a bill that we have indicated our conceptual support for, but have raised some questions about in terms of the implementation procedure for effecting developer contributions.

SENATOR VAN WAGNER: I wonder if I may just ask something. In my capacity in the Assembly as Chairman of the Taxation Committee, I worked closely with the Tax Section of the Bar. I wonder if there is any coordination that goes on between the Land Use Committee and the Tax Section?

MR. POZYCKI: Well, there is potentially coordination, but generally their paths don't cross that often. Taxation and land use have been, in the past, somewhat separate. We are realizing how intimately tied they are.

SENATOR VAN WAGNER: They are very intimately intertwined at this point in time. I wonder if you might advisedly, sir, perhaps through your own body, ask if there might be an intertwining, if you will, as it relates to tax sharing? I would like the Bar's feeling on that. I know I have had some extensive discussions in the past with the Tax Section of the Bar. Not being an attorney myself, I have always found it to be an interesting exercise.

MR. POZYCKI: We would be happy to entertain your suggestion, Senator. It is really our purpose, as lawyers, to -- believe it or not -- reduce the potential for litigation under the Transportation Development District Act. There are some lawyers who have told me from time to time that legislative uncertainty or confusion makes a good deal of profit for lawyers, but I think the more informed lawyers like to practice in a world of legislative clarity, where they can effect solutions on behalf of their clients, rather than wage battles.

I indicated to you that I came in two capacities. My second reason for being here is essentially as a citizen activist concerned with development management and planning issues. As you may be aware, I did chair the committees

unnecessary because the necessary foundation for traffic improvement exactions is simply a traffic improvement plan. You don't require the entire comprehensive master plan that is suggested in the County-Municipal Planning Partnership Act. So, the first element in regional or countywide planning could be accomplished separately and independently, and on an expedited basis, with a very minor amendment to the Transportation Development District Act, requiring that such planning begin immediately upon the passage of the Transportation Development District Act.

The County-Municipal Planning Partnership Act is certainly moving along, and I applaud all those who have been working on it, not the least of which are DOT, the counties, and the League of Municipalities, beginning to build what Bill Dressel expressed as a conceptual consensus. But, as one who has worked on the comprehensive amendments to the Municipal Land Use Law, the State Planning Act, and the Fair Housing Act, I can tell you that you are still a long way from an actual technical consensus, or a structural consensus. You are at conceptual consensus.

There will be, I think, a good deal, and there should be a good deal more that goes into the process of determining how one establishes capacity standards. No one has the solution as yet. We know what they are, and we know a lot of the different elements that go into them -- square footage of a building, the amount of capacity of a road system, and what have you. But I can tell you, as one who practices almost exclusively in that field, that we are a ways from the establishment of those standards. Even if one would believe that for political reasons the County-Municipal Planning Partnership Act could be moved, could be adopted quickly, and would not delay the implementation of the Transportation Development District Act and the immediate mechanism for developer contributions under that bill, you are still faced

Commissioner -- in our symphony for the effectuation of traffic improvements, and on behalf of applicants, that there is no standard formula for the calculation of an impact, for the calculation of a dollar contribution, toward a traffic improvement district. The planner from Essex County was right on point. You don't have a formula as yet, and I will warn you that if you look, and look very hard, you are not going to find a formula. You can open up the traffic engineering journals, in which there are formulas for calculating the number of trips that would be generated by a particular use, the number of turning movements, and so on and so forth, but you are not going to find a standardized exaction formula that is accepted on a professional basis by all traffic engineers.

There is a way, however, to avoid, or to overcome that difficulty. And the way to overcome that difficulty is through intelligent legislation. Right now, New Jersey is not just one of the states that should be concerned about exceeding its infrastructure capacity, both man-made and natural; it is the State that should be first and foremost concerned about it. We are the most densely populated State in the country right now, and we have to face the fact that we are either at, or exceeding capacity of our natural and our man-made infrastructure to support the growth that we have absorbed, and are continuing to absorb.

If we are to do that in terms of funding the necessary transportation improvements, what we need is a simplified formula that is legislatively incorporated, that can be calculated by an individual property owner or developer, without the assistance of the county planning board or the Department of Transportation. It has to be a formula that is arrived at by consensus among traffic engineers, and we can put together such a formula by getting the traffic engineers of this State to agree upon the best arbitrary formula, because you will take all of the formulas that are available and try to

What I'm saying is, rather than have a series of alternative methods for calculating the impacts that are administratively adopted and changed from time to time at DOT, and applied in different cases in different ways with appeals running against all of these, what we need to do is take the best traffic engineering knowledge as to the fairest way of calculating, even though there isn't a broad professional consensus, and legislatively adopt it based upon findings in the legislation that clearly recognize that there is no one broadly accepted standard by the professional engineers that is fair in every instance, but that the standard incorporated in this legislation is the most fair standard that could be arrived at after intensive investigation by the Legislature, and is necessary because of the traffic capacity crisis that is affecting our health, our life styles, and our pocketbooks in New Jersey today.

SENATOR VAN WAGNER: But, you realize that even though we might take that approach and develop, after much input, a standardized formula, similar to what we did with Thorough and Efficient, when we developed a so-called standardized formula--

MR. POZYCKI: It's a little different there.

SENATOR VAN WAGNER: A little different, but very analogous, because--

MR. POZYCKI: You're dealing with governmental entities, rather than individual private property rights, which will have a different review by the courts, I believe.

SENATOR VAN WAGNER: Well, we were also dealing with government entities in that process, because we were trying to develop a process by which we would come up with the fairest method by which not only a student within a school district, and not only a municipality within a county, but a county within a State, would, in effect, develop the amount of assessed valuation that would, in essence, be what we considered to be a fair amount of ratable backup beyond each

standards. I think the concern of the Essex County planner related more to the County-Municipal Planning Partnership Act -- the relationship of a proposed development to capacity standards. There is a lot that has to be done to work out that relationship. I mean, the legal pitfalls are myriad, when one attempts to interfere with private property rights by the effectuation of standards. I think it can be done with capacity standards, but I think there can be a problem in developing those standards.

What I'm talking about is just the actual formula for the calculation of how many dollars an individual developer has to pay for road improvements, before he gets the right to build? What I'm saying is, if a uniform formula, arbitrarily adopted to achieve the greatest fairness possible today is legislated, then you will have two benefits: First of all, the developers will be less likely to litigate, and litigation will be minimized. The reason for that is that the developers, if they can make an independent calculation of the amount of dollars they are going to have to contribute in advance, without having to go through a review procedure to make that determination with certainty, they can wrap the cost of that into their application for financing, and they will have the funds with which to build. They will be assured that all of their competitors will be charged a like amount, and they will be less likely to litigate. If they do, it will be one case that will test the credibility of the formula. Once it is sound, you won't have to have all of the litigation, or even land use arbitration type review.

If I may make just one other point along the same lines, in two seconds. You will also reduce the need for major administrative implementation of the traffic dollar contribution -- traffic improvement dollar contribution. Rather than have individual cases come up and be reviewed as against a whole slew of standards on an administrative basis,

First, let me say that originally we were going in a package, but then we found the futility of it because, very frankly, the County-Municipal Planning Partnership Act is a very difficult one. We are moving in the direction of the Highway Access Bill first, and the TDD second. They may move together, I don't know. But at least the Highway Access Bill, which is a must, because we are reaching the paralytic stage, so to speak, in this State, unless we do something. The TDD-- Certainly we ought to move on that.

I do want to say one thing, and I guess the builders will like to hear me say this: The fees-- I hope we didn't leave the impression that the fee structure is going to take care of everything, because that really is not so. It is merely to offset the burden. I want to really be very specific. It was never intended that the fee structure would take care of a package, or take care of a \$100 million road, or a mass transit system. It is merely a contributing offset on the total burden, and we feel it has a place, and fits into the overall fiscal picture. It is used, not only in New Jersey-- It has been used since the Hartz Mountain people came in some nine years ago, or eight years ago. Of course, that was the first approach we did. It is now being accelerated. I would suppose that the Commissioner could tell us more about that, now many, and so forth. But it is used all over the country, and is recognized as a tool, and is recognized by the courts. If it is done legislatively and correctly by the Department, it will become an aid.

MR. POZYCKI: What is this you are referring to, Senator?

SENATOR RAND: The fee structure. It is not to take the place of the State's obligation to fund on State highways, and it is not meant to replace the pots of money that we allocate, or we appropriate to take care of a trust fund, so to speak, or the whole litany of transportation projects. It is

But my point is -- and I'm sure we have a concurrence here; you expressed it yourself -- is that we have to act now, or the paralysis that is ongoing will become, I think, an ultimate form of paralysis. We are missing the opportunity to gain the developer contributions that the present growth period is providing us with. So we do need to move that Transportation Development District Act on an expedited basis, and it does need an amendment to provide for a traffic improvement plan.

I might point out that the counties are better prepared to move on a traffic improvement plan than they are on a county capacity plan for traffic, water, drainage, and so on. The counties, as a general rule, in order to be able to remain viable for Federal funding, do produce the TIPS programs, which they do, usually, every four years. So they've got most of the traffic engineering analysis -- not all, but most of it -- done and relatively up-to-date. DOT has its own traffic planning for the State roads on a fairly up-to-date basis. If one combines the traffic planning for the county roads and the State roads that is virtually presently available, one can effectuate a plan relatively quickly. One doesn't need cross acceptance, because one does not have to mandatorily exact against municipal roads, unless a municipality wants to volunteer, and that bill can go into immediate adoption, and virtually immediate implementation, garnering the funds we need, at least coupled with public funds, for the support of traffic improvement projects.

SENATOR RAND: Senator Van Wagner, for a private citizen, he is pretty good.

SENATOR VAN WAGNER: Who, Harry? Harry knows his business.

SENATOR RAND: Yes, he does.

SENATOR VAN WAGNER: You know, there is still a problem, if you will. I can relate to the need to develop a

I heard discussion earlier today of, you know, what happens if there is not enough capacity in a particular area to the private property rights? Does the developer apply and not be able to build? I heard an answer that said, "Well, no, we'll leave some small amount at least." I guess everybody gets a little dribble of the last few drops of capacity that might be left in an over-capacitated region. I don't believe that is legally defensible.

I think that even though there are court cases that say you can get by with almost any kind of a land use restriction as long as you leave a residual value--

SENATOR VAN WAGNER: It is not legally defensible.

MR. POZYCKI: --you can only go so far with that. You may have to go into development phasing mechanisms, in which you allocate the capacity as it comes on-line, and in which you encourage developers to bring it on-line more quickly. But I entirely agree with you, Senator, that just because we are going to get traffic improvement dollars through a Transportation Development District Act does not mean that we have as yet wrestled with the major problem of building and growing beyond our capacities. I am simply saying I think we can move faster on both fronts if we separate them, break up the logjam, and address the ones that are most susceptible of solution consensus and adoption first.

SENATOR VAN WAGNER: Anyone else? (no response)
Thank you, Mr. Pozycki. I appreciate your remarks and your interest in coming here today. It was very enlightening.

MR. POZYCKI: Thank you very much, Senator.

SENATOR VAN WAGNER: We have been joined just now by the Mayor of Old Bridge, Mayor Russell Azzarello. Mayor, we have one more person to testify, and we would certainly welcome your closing remarks, if you would.

The last person to testify, who will be followed by the Mayor, will be Mr. Tony Giancarli, from the New Jersey

difficult to get a meaningful exchange on, or revisions to proposed rules under the administrative rule-making process. Let me add that these prior difficulties with rule-making have not been with DOT.

The NJBA also has several concerns with the procedures which would allow DOT to revoke access permits. These relate to costs for resulting site improvements and application procedures for amended permits. At the request of DOT, we will be submitting suggested language to DOT for inclusion in this legislation.

Let me turn now to the New Jersey Transportation Development District Act -- S-2628 and A-3290. As you know, this Act establishes the authority for counties to create transportation development districts which could then access off-tract improvement costs on development. Presently, builders pay a pro rata share of costs for off-tract infrastructure improvements, as provided in the Municipal Land Use Law. Yet, we recognize that the whole concept of infrastructure funding in this country is under review at the time.

There are several avenues available for a comprehensive review of infrastructure financing in its total economic context. One is the State and Local Expenditure and Revenue Policy Commission. We stand willing to work with this Commission on this important matter. The other is through the offices of Governor Kean, with whom preliminary discussions have already begun.

NJBA cannot, however, support the creation of a variety of special districts and varied impact and linkage fees which have not been evaluated in the context of this total economic framework.

Setting aside for the moment the issue of impact fees and special districts, there are several provisions in the legislation regarding the imposition of impact fees that NJBA

legislation will only create a very cumbersome review process, without improvements to the process on issuing these access permits.

In conclusion, we understand DOT is currently reviewing our comments, as well as comments from other parties. We anticipate that we will be contacted by DOT in the near future for a follow-up meeting on our concerns. Therefore, we feel that action on this legislation is premature at this time.

I want to thank you for the opportunity to speak before the Committee this afternoon.

SENATOR VAN WAGNER: Tony, this is a hearing and, you know, we are not going to be taking any action on the bills--

MR. GIANCARLI: Fine.

SENATOR VAN WAGNER: --at this time. What is your reaction to Mr. Pozycki's recommendation that a formula be established that would be based on various components provided to us by transportation planners and traffic engineers, that would enable a developer -- in advance of his proposal citing his financial needs -- to determine exactly what the costs might be?

MR. GIANCARLI: Well, that seems like a reasonable remedy, except that our concerns now are, in terms of impact fees-- We want to look at impact fees in the total context, rather than being hit by impact fees now, and then later on recreation, on infrastructure, on schools. That is our major concern -- that in the future we are going to be attacked with other impact fees, and this is going to keep going on and on and on.

What we would like to do is look at a total impact fee structure from the very beginning.

SENATOR VAN WAGNER: Are there any other questions? (no response) Thank you very much for coming today. I can assure you that this process will be ongoing.

I guess what I'm saying is, if regionalization will help to provide the methods by which we can address some of the problems-- A simple one: We want to paint some lines on Throckmorton Lane, a residential street within our development. The State DOT will not allow us to do that because it doesn't meet certain criteria and warrants. We know that those lines will give direction to our drivers, to say, "Go straight," if you are in this lane, and, "Make a lefthand turn," if you are in that lane. Now, to me, that is absurd.

We need certain jurisdiction within the framework, or within the infrastructure of our communities, in order to address these problems. Now, hopefully, when we talk about the direction of this Committee and its intentions -- from what I have been told by those who were here earlier -- they are to address some of those needs, and how we, as municipalities and counties and State government, can work hand in hand to come up with the solutions, if you will.

I hear you discussing developmental plans and other things, but quite frankly what I really think is necessary is, if a traffic light on Route 9 has a nine-second cross ratio, and I have people who are getting off buses, commuting from New York, who can't get across Route 9 at a red light, and they get stuck somewhere in the middle when the light turns green again, that is a problem we have to address locally. We can't hear from the State, "No, we can't make those adjustments," or, "The adjustments are difficult to get." I'm sorry Commissioner Gluck isn't here. I know she was here earlier, and I apologize for my other commitments. But what I am saying is, that is the kind of thing we need.

In addition to the things you have discussed, where future transportation plans can be addressed by mass transit, i.e., rail specifically, because putting additional vehicles on the highways doesn't necessarily solve a problem, but it could maybe reduce some of it with mass transit-- Rail

here at the Recreation Center or anywhere else in the building, let us know. Once again, thank you for coming, and thank you for hearing me.

SENATOR VAN WAGNER: Thank you, Mayor. Just so I can maybe review with you a little bit about what went on earlier when Council President Dunlop testified, and based on comments made by Committee members, it was expressed to Commissioner Gluck that as part of the joint planning mechanism that is contained in these proposed bills, the municipalities be involved at the outset, rather than being at the other end of the planning process. So, your point is well taken.

MAYOR AZZARELLO: Well, as long as you get that message. The point I want to make is, we are starting to get the thought, "Do we have to make our own decisions, and then ask for the ounce of forgiveness, or the pound of forgiveness, before we ask for an ounce of permission?" It's like: Let's go paint the street lines ourselves, and if the State comes and tells us no, you shouldn't have done that, the worst we'll say is that we're sorry. Now, I'm not saying we want to do that, because that is not the style of our administration -- myself or the Township of Old Bridge -- to just take on a rebellious and/or vigilante approach to a problem.

What we're saying is, we need to be able to address those areas, without 17 pounds of bureaucratic decisions being made in areas, and by people, who are not here firsthand on the scene. I do appreciate the fact that the planning process will include us up-front.

Thank you.

SENATOR VAN WAGNER: Thank you, Mayor. That concludes our public hearing today. We again express our gratitude to the Mayor and Council of Old Bridge, and all the officials who

APPENDIX



HAZEL FRANK GLUCK
COMMISSIONER

STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION
1035 PARKWAY AVENUE
CN 600
TRENTON, N.J. 08625
609-530-3535

To the Citizens of New Jersey:

An efficient transportation network is vital in maintaining New Jersey's economic growth and our improving quality of life. But the pressures for improvements that growth puts on the state's transportation network go far beyond solutions available through traditional resources.

This book contains the New Jersey Department of Transportation's legislative initiative, *Transplan*, which provides a framework for resolving those pressures through planning and management.

A three-bill package, *Transplan* would allow the state, counties and municipalities to become partners in the planning process; it would preserve the arterial functions of our roadways for the safe, rapid, and efficient movement of people and goods, and it would provide a mechanism through which the public and private sectors would both provide funding for infrastructure improvements where resources and reasonable time frames are not adequate.

The pressures of the present require us to have the courage and the vision to make far sighted decisions in the management of our transportation system. This package of bills provides the framework for implementing that vision.

A full explanation of *Transplan* is contained in the following pages. I urge you to read and become familiar with this framework for New Jersey's future.

Hazel Frank Gluck

Commissioner of Transportation

NJ TRANSPLANStatement of Problem:

An efficient transportation network is vital to support the State's current economic growth and our improving quality of life. However, development, if not properly planned, can result in a congested and inefficient transportation network, eventually stifling growth.

Rarely do the transportation impacts of economic development stop at municipal borders. Today's laws do not address the need for regional coordination of development which occurs in one community but which affects (perhaps adversely) persons in neighboring municipalities. Nor are the transportation requirements adequately considered and anticipated.

Balance of Interests

How do we (NJDOT) meet our mandate of providing a Statewide system of transportation, which is balanced and integrated, while recognizing the rights of our State's 21 counties and 567 municipalities to protect their individual characters?

Criteria for Solution:

1. Identify issues of regional significance, and establish planning and coordination mechanisms to treat these issues.
2. Establish the county as the body responsible for evaluating developments of "regional significance."
3. Preserve local powers found in the "Municipal Land Use Law" and the new State powers as outlined in the "State Planning Act."
4. Achieve closer coordination at all three levels of government (State, County, Municipal).
5. Streamline the process.
6. Make requirements equitable.

3 Bill Proposals:

1. Municipal-County Planning Partnership Amendments (S-2626, A-3289)
2. State Highway Access Management Act (S-2627, A-3291)
3. New Jersey Transportation Development District Act (S-2628, A-3290)

STATE HIGHWAY ACCESS MANAGEMENT ACT

Purpose: To preserve the State highway system as a network of arterial routes for the safe, rapid and efficient movement of people and goods.

Uncontrolled proliferation of access onto State highways significantly slows traffic and creates both congestion and safety problems.

Balance is needed between "mobility" and "access" — based on classification of roads' usage, e.g.:

- * Route 78 - high speed/long distance mobility/limited access
- * "Main Street" - lower speed/local mobility/increased access

Features:

NJDOT to adopt a State Highway Access Management Code:

- * Sets standards for spacing and design based of usage of roadway
- * Establishes procedures for permits

Municipal development permits must comply with code

Phase-in of standards (grandfathering)

Civil penalties for illegal driveways

Permits may be revoked when:

- * reasonable alternative access is available, or
- * use of property changes

Counties and municipalities may adopt their own access codes

TIME TABLE FOR ADOPTION OF INFRASTRUCTURE DEVELOPMENT PLANS (IDP'S)

Day one: The county notifies all its municipalities that the process is beginning. The 18 month clock starts now. With the notice, the county explains the 18 month process in detail. It specifically states what data will be required from the municipality for the county to start its plan basis.

First and second months: During the first two months, county staff will meet with municipal officials, planning boards and/or staff as often as necessary to explain process, answer questions, assist municipalities in assembling data, and providing technical assistance where requested. The county will also be assembling its data base.

Third and fourth months: The county will analyze all data, hold formal meetings (formal denotes meeting all requirements of the open public meetings act) with the municipalities to obtain initial input into the general shape of the County Infrastructure Development Plan (IDP). This is a period for tagging areas of obvious, impending conflict, for identifying areas of mutual concern and of agreement and for discussion of issues, process and problems in the IDP's evaluation.

Fifth month: The county submits to the municipalities at the start of this month its tentative position on the policies relating to the four infrastructure elements. This is the draft IDP. The county should tentatively identify issues to be resolved and proposals to solve them.

Sixth month: During this month, the county will hold not less than 4 formal regional hearings in different areas of the county on its draft IDP. The IDP should by this point be somewhat detailed, but clearly a draft open for public comment, not a final document presented for ratification or rejection.

Eighth month: By the end of this month the municipalities shall submit to the counties, written critique of the four draft policy documents which comprise the IDP.

Ninth month: The counties shall hold formal meetings with each municipality to clarify any outstanding issues. The cross-acceptance process starts here. If substantial conflicts are evident one party may request the initiation of mediation by a third party - possibly a "master" appointed by a Land Use Board of Appeals who would be versed in land use matters.

Twelfth month: By the end of this month, the county submits its tentative detailed IDP to all municipalities, having taken into account and evaluated all municipal comments thus far.

Thirteenth month: Municipalities submit comments on the tentative plan, still working on resolving areas of conflict into expanded areas of agreement.



TO: MEMBERS OF THE SENATE COUNTY AND MUNICIPAL GOVERNMENT COMMITTEE

FROM: LOUIS CYKTOR, III
PRESIDENT CENTRAL JERSEY BUILDERS ASSOCIATION AND
CHAIRMAN CONSTRUCTION CODES COMMITTEE
NEW JERSEY BUILDERS ASSOCIATION

RE: TESTIMONY IN SUPPORT OF SENATE BILL 3458/A-4208

DATE: AUGUST 28, 1987

The NJBA strongly supports the passage of S-3458/A-4208. This bill strengthens the regulatory effectiveness of the Uniform Construction Code Act. The bill would require the Department of Community Affairs to use the Building Officials and Code Administrators International, Inc. (BOCA) National Energy Conservation Code without technical modifications. Recent regulatory changes have established a hybrid code that if implemented on November 1, 1987 would result in excessive, unnecessary and costly residential energy requirements. Energy experts have publicly testified that design modifications due to overly stringent insulation requirements would substantially increase the cost of housing. They estimate that consumer pay back for these additional energy costs would be in excess of ten years.

The NJBA firmly believes that the Department of Community Affairs should reinstate the use of the BOCA Code as the energy conservation subcode and should not arbitrarily modify the code without properly following the provisions established in the Uniform Construction Code Act.

Because of the technical nature of subjects I have attached, for your review, supplemental information which more fully describes the recent history of the energy subcode. If you have any questions regarding the content or nature of this material please feel free to contact me or the NJBA.

In closing I would like to state again that the NJBA fully supports the passage of S-3458/A-4208.

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Financial Consultants



9X

AFFILIATES

- National Association of Home Builders • Atlantic Builders Association of New Jersey • Home Builders Association of Cape May County • Central Jersey Builders Association • Builders Association of Metropolitan New Jersey • Builders Association of Northern New Jersey • Home Builders Association of Northwest New Jersey • New Jersey Shore Builders Association • Builders Association of Somerset & Morris • Builders League of South Jersey • Builders Political Action Committee of New Jersey • Home Owners Warranty Corporation of New Jersey • Insurance Trust of the New Jersey Builders Assoc. • Institute of Multi-Family Housing

adopted to the building envelope thermal performance standards by DOE last year. (The same standards now being proposed for recodification by the DCA.) Both departments have failed to follow the procedures set forth in the Act of submitting proposed technical modifications to the National Model Code Agency, BOCA, for public hearing.

Perhaps, at this point a brief history of how we got to where we are today is in order. In March of 1985, the DOE published its Draft New Jersey Energy Master Plan. That document contained, among other things, observations and recommendations relative to the conservation of energy in new residential construction. Several statements were made in the Master Plan which our association took exception to. For example, on Page 158 the draft plan stated "...those who actually design, build and equip the homes and apartments of tomorrow seldom save more energy than they are required to save. The reasons are not hard to find. The real estate industry wants to keep sales prices as low as possible and is concerned that an energy efficient house is more expensive." Another quote regarding the efficiency of appliances: "The appliance user is not always the person who bought the appliance. The buyer is typically the same homebuilder who, as before, wants to keep the initial price low, even though the unlucky user will pay wastefully high energy bills." During the public hearing for the Draft Energy Master Plan our Association presented testimony and evidence to the DOE which supported our contention that builders in New Jersey construct homes well in excess of the minimum thermal performance guidelines established in the model energy subcode. We presented sales/marketing brochures selected at random to the hearing panel to

Farmers Home Administration (FmHA), a nationally recognized body whose standards are used in all States.

This brings us to May of 1986. The DOE published a proposal in the New Jersey Register, which supposedly amended the BOCA Energy Conservation Code to delete the thermal performance standards for lowrise residential structures and replace same with what was allegedly the FmHA standards based upon the degree day history of New Jersey. The proposal contained technical errors throughout and did not in the least bit resemble the FmHA values for the associated degree day values. Further, the DOE continued to use degree day information based upon historical data from Albany, NY in 1969, New York City in 1951, and Philadelphia, PA, in 1969: 3 regions located outside the State of New Jersey. The DOE had access to several sources of degree day information with recorded data within the geographic confines of the State. Despite the objections of the NJBA to the inaccuracy of the technical values which appeared in the proposal and the link to the inappropriate degree day values, the DOE adopted its flawed proposal unamended, on August 4, 1986. This adoption created a hybrid of BOCA's Energy Conservation Code amended with incorrect FmHA thermal performance values. Upon request, the NJBA managed to sit down with representatives of the DOE to discuss the problems with the August 4 adoption. Our meeting resulted with the admission by DOE that the August 4, 1986 adoption was flawed in that it would be modified accordingly. On September 22, 1986 (after the Governor's Reorganization Plan), a proposal appeared in the New Jersey Register by the DOE which contained the alleged correct FmHA thermal performance values. Once again, the proposal was inaccurate. The values did not

The DOE cited the nationally recognized status of FmHA as justification for inserting the stringent thermal performance construction standards in tothe BOCA text as a means to bypass the procedure of proposing technical modification to BOCA's code change process. In effect, the DOE said "our model energy subcode is BOCA's, but for lowrise residential structures, it is FmHA's". Notwithstanding the fact that FmHA's standards (1924-A, Exhibit D) prescribe standards to be used specifically for it's housing loan and grant programs. This is well and good for those single and multi-family projects working with very low interest FmHA loans, where the payback in terms of energy cost savings over time is less than those costs associated with the installation of additional energy conservation materials. Last year, however, FmHA loans represented less than 2% of all residential units being built in this State. DOE's adoption of the FmHA standards into BOCA's text also means that building not eligible for FmHA loans, i.e. lowrise hotels/motels must now design and build to FmHA guidelines.)

The energy subcode has been discriminatly amended by the DOE and supported by DCA to impact severely the methods by which builders must now construct their homes. Increased exterior assembly "R-values" will reduce the amount of required glazing in walls and ceilings for natural light and ventilation. Furthermore, the stringent requirements will reduce natural air infiltration in new home construction, which is necessary to control indoor air pollution problems. This may lead to a future requirement for mandatory mechanical ventilation in the form of air to air exchangers - particularly with the concern for radon in homes today. Wall construction will change with the additional thickness in terms of insulative batt material to be fit between