

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

before

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

SENATE BILLS 2626, 2627, and 2628

"TRANSPLAN"

(Bills proposed by the Department of Transportation)

April 6, 1987
Room 341
State House Annex
Trenton, New Jersey

**MEMBERS OF SENATE TRANSPORTATION
AND COMMUNICATIONS COMMITTEE PRESENT:**

Senator Walter Rand, Chairman
Senator S. Thomas Gagliano

**MEMBERS OF SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE PRESENT:**

Senator Richard Van Wagner, Chairman

ALSO PRESENT:

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

Hannah Shostack
Office of Legislative Services
Aide, Senate County and Municipal
Government Committee

New Jersey State Library

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



New Jersey State Legislature

**SENATE TRANSPORTATION
AND COMMUNICATIONS COMMITTEE**

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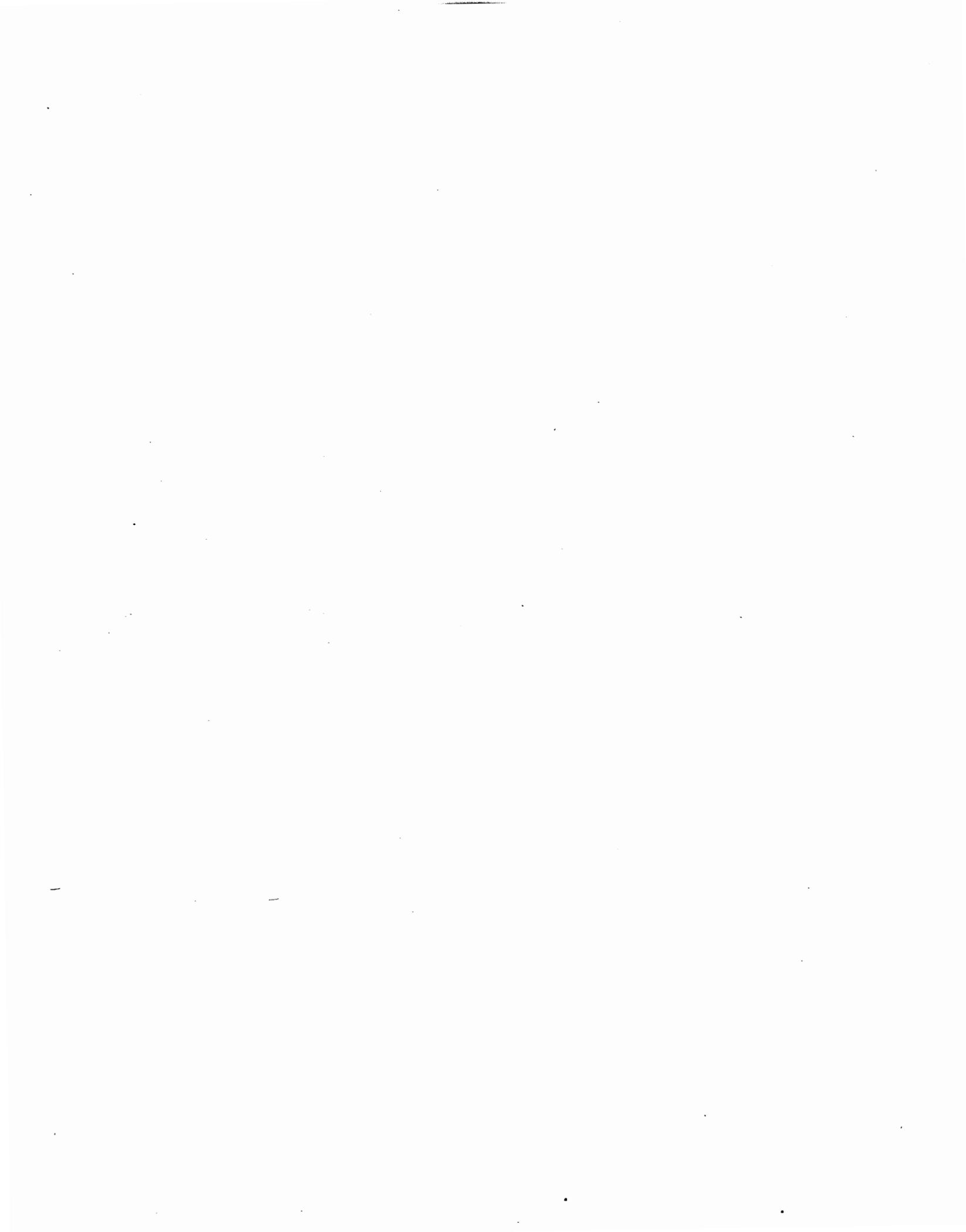
March 19, 1987

NOTICE OF JOINT PUBLIC HEARING

The Senate Transportation and Communications Committee and the Senate County and Municipal Government Committee will hold a joint public hearing on Monday, April 6, 1987 at 10:30 A.M. in Room 341, State House Annex, Trenton.

The purpose of this hearing is to discuss S-2626, S-2627 and S-2628, the "Transplan" bills proposed by the Department of Transportation. Although the bills are to be considered as a "package," this hearing will focus primarily on S-2626, which provides a stronger regional planning role for counties. Subsequent hearings will focus on the other "Transplan" bills. This is the second in a series of hearings on these bills.

Anyone wishing to testify should contact Peter R. Manoogian, Aide to the Senate Transportation and Communications Committee, at (609) 984-7381.





New Jersey State Legislature

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Chairman
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MARCH 27, 1987

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The purpose of this hearing is to discuss S-2626, S-2627 and S-2628, the "Transplan" bills proposed by the Department of Transportation. Although the bills are to be considered as a "package," this hearing will focus primarily on S-2626, which provides a stronger regional planning role for counties. Subsequent hearings will focus on the other "Transplan" bills. This is the second in a series of hearings on these bills.

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

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. 1965, c.
45 308 (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. 33 (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
 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 our
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] develo-*
 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. 53:18A-202), 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 cou-*
 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 munic-
 13 ipal 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 munic-
 31 ipal 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 designer.
39 In the event that the board, committee or designer 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 designer 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 designer 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. 1963, 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. 1963, 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. 1963, 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. 285 (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. 285 (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. 285 (C. 40:27-6.6)] shall be submitted by
25 the applicant to the county planning board for [review or ap-
27 proval] certification as required by [the aforesaid sections and,
28 the] sections 5 through 7 and section 9 of P. L. 1968, c. 285 (C.
29 40:27-6.3 through 40:27-6.5 and 40:27-6.7). The municipal plan-
30 ning board shall [condition any approval that it grants upon timely
31 receipt of a favorable report on the application by] not accept
32 an application for development as complete until it has received
33 a certification from the county planning board indicating that the
34 application is in accordance with the county's ordinances or resolu-
35 tions regulating development, or [approval by] until certification
36 is obtained from the county planning board [by] as a result of its
37 failure to report thereon within the required time period.

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 h. [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, 29.2 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 utive 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 h. 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 h. 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 his 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 acquired, 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. § 124.
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. 235 (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 [like] in the above bill
is not enacted and is intended to be omitted in the law.
Matter printed in italics *like* 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 suppl-
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 l. *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 *isdiction, 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 Management 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 *Managment Act of 1986," P. L. , c. (C.) (now*
 45 *pending before the Legislature as this bill), for the regulation of*
 46 *land adpacent to county roads and highways in conformity with*
 47 *any access management code adopted by the county under R. S.*
 48 *27:16-1 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[.] result-
21 ing 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. 83 (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 coun-
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."

TABLE OF CONTENTS

	<u>Page</u>
Hazel Frank Gluck Commissioner New Jersey Department of Transportation	2
Richard E. Squires County Executive Atlantic County	3
Richard S. Dovey Head of Regional Planning and Development Atlantic County	13
Patrick J. Witmer Director of Legislative Affairs New Jersey State Chamber of Commerce	19
Alan M. Kammerer Vice Chairman of Transportation Committee South Jersey Chamber of Commerce	28
Dennis F. Bradley Vice President South Jersey Chamber of Commerce	32
Keith Wheelock Project Manager Managing Growth in New Jersey	42
Barbara Lawrence Regional Plan Association	53
Winn Thompson Princeton Area Developers, Inc.	60
Paul L. Hammann President PLH Associates	64
William Dressel, Jr. Assistant Executive Director New Jersey State League of Municipalities	71
Mark L. Stout Chief of Bureau of Policy Analysis New Jersey Department of Transportation	76
Anthony Pizzutillo Director of Governmental Affairs New Jersey Builders Association	78

APPENDIX:

	<u>Page</u>
Position statements submitted by Alan M. Kammerer Vice Chairman of Transportation Committee South Jersey Chamber of Commerce	1x
Chart submitted by Keith Wheelock Project Director Managing Growth in New Jersey	12x
Statement submitted by Winn Thompson Princeton Area Developers, Inc.	13x
Statement submitted by William Dressel, Jr. Assistant Executive Director New Jersey State League of Municipalities	25x
Statement submitted by Anthony Pizzutillo Director of Governmental Affairs New Jersey Builders Association	49x
Statement submitted by Samuel H. Hamill, Jr. Executive Director Middlesex-Somerset-Mercer Regional Council, Inc.	55x

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SENATOR WALTER RAND (Chairman, Senate Transportation and Communications Committee): Good morning ladies and gentlemen. My name is Walter Rand, and I'm Chairman of the Senate Transportation and Communications Committee, and I'm happy to welcome you here this morning to this joint public hearing. On my right is Senator Tom Gagliano, and Peter Manoogian a staff aide; and on this side is Madelyn Rumowicz, a staff aide also. Those of you who wish to testify, and have not yet notified the Committees, please advise Peter Manoogian after the opening remarks are concluded, of your desire to testify.

This public hearing has been called to receive testimony concerning Transplan, a package of three bills, namely S-2626, S-2627, and S-2628, proposed by the Department of Transportation, and referred to the Senate Transportation Committee. This is the second in a series of hearings conducted by the Senate Transportation Committee. Although the bills are to be considered as a package -- we will receive testimony concerning all of them today -- it has been decided to focus on S-2626, which provides for a stronger regional planning role for counties. Because of the subject matter of S-2626, some members of the County and Municipal Government Committee are meeting with us jointly to hear testimony on the bills, and they will be present a little later on.

We look forward to the testimony to be presented here today. Senator Gagliano?

SENATOR GAGLIANO: Yes?

SENATOR RAND: I know you have some remarks to share.

SENATOR GAGLIANO: Thank you very much, Mr. Chairman. It's interesting to note that-- I think this just came in over the weekend, the Route 1 Corridor Transportation Study. It came into my office. In fact I just opened the envelope this morning. I didn't have a chance to look at it, but I'm sure the Route 1 problems that we've had -- well actually, they're

good problems -- but the situation with respect to development on Route 1 probably has prompted Transplan as much as anything.

In connection with the testimony today -- and I apologize for missing the first public hearing on this; I was in another meeting. What I would like to suggest, Mr. Chairman, is that we have an example given to us of how it would work. Sometimes it's the easiest way for us -- for me, at any rate -- to understand. For example, supposing there was a large office building to be built near a municipal boundary, on a State highway; and that this building would be say, a half million square feet -- which would obviously generate a substantial amount of traffic, drainage problems, and the like. Since it's near or adjacent to a border between two municipalities, I would be interested in knowing just how this would work. Not just me, I mean I think I know, but I think it's important that we address some of those issues as examples so that we could see it happen on a step by step basis. If we can get it today, fine. If not, at some point I'd like to suggest that we do have that.

SENATOR RAND: All right. Senator Gagliano, the question is very apropos. The Transportation Department was going to listen, rather than make any comments today. They have testified, but I think that your question is certainly valid. Madam Commissioner, would you want to answer, or have any of your staff answer Senator Gagliano?

SENATOR GAGLIANO: Or sometime in the future, Mr. Chairman, as this is developed.

SENATOR RAND: Yes.

COMMISSIONER HAZEL FRANK GLUCK:
(from audience) I think what we can do, so we can be as specific as we possibly can -- because I can answer you in general terms, but in the specifics as to how it would go the municipal planning board, and then on to the county-- What would happen if there were problems with water, or sewer, or

drainage, or transportation -- what would happen as a result of that -- I will ask the Staff, if it's okay with both of you, to take the scenario that we talked about and write it out--

SENATOR RAND: Yes. I'd like to see a flow chart myself.

COMMISSIONER GLUCK: --as to how we envision it would go back and forth, and we'll send it to you.

SENATOR RAND: Okay. I think I can answer it, but I'm sure I'll screw it up.

COMMISSIONER GLUCK: Well, I don't know about that.

SENATOR RAND: A flow chart would be very apropos. Okay. Is that satisfactory, Senator Gagliano?

SENATOR GAGLIANO: Yes sir. Fine.

SENATOR RAND: The first witness will be the Honorable Richard Squires, the County Executive from the County of Atlantic. Good morning, sir.

R I C H A R D E. S Q U I R E S: Good morning, Senator. Any particular microphone?

SENATOR RAND: Just sit down and make yourself comfortable.

SENATOR GAGLIANO: You might want to move that table forward.

MR. SQUIRES: Yeah. I don't want to get in trouble with these ladies. (referring to hearing reporters)

Senator Rand, and Senator Gagliano, before I start, I will attempt to give you a perfect example of what could be a model for Commissioner Gluck: on a particular model to improve on for a project that really did need coordination of a lot of agencies. It has been a successful one, so I'll give that as part of my testimony.

My prepared statement is available for anyone that wishes it before I leave. I believe the board does have a copy of it. Peter has some extra copies.

Good morning. I am Richard E. Squires, County Executive of Atlantic County. I am pleased to make this presentation to you today, because the three bills known as Transplan will provide all of us at the local, county, and State levels with better tools to guide growth and development.

Each of the three Transplan bills, in fact, would strike deeply at a continually growing problem in Atlantic County, and certainly across the State. We are in the midst of one of the greatest economic booms in New Jersey's history, and especially in my area. The growth fueled by the casino and lodging industries is putting enormous demands on our ability to provide essential services. Of course, among the most critical of the services we provide on the county level is a safe and efficient highway system. We must ensure that road and highway capacities keep pace with development, and that new facilities be built if necessary.

The most effective way to do this is to review large developments and require that they handle the extra demand that will be placed on the regional infrastructure, whether the roads, water supply, or sewers. Counties now do not have the complete authority to do this since we may only review projects that front on county roads or affect county drainage. This leaves gaps in our planning, funding, and construction of area-wide improvements, since many regional scale developments lie outside our jurisdiction.

The county-municipal planning partnership amendments would correct this imbalance. Counties would review developments of regional significance, and these developments must be found in conformance to county master planning for transportation, water supply, drainage, and sewage. If not, the development may be required to mitigate the impacts brought about by its non-compliance with the plan.

I should state that these new county responsibilities are going to place an enormous financial and staff burden on each county. Clearly, some refinements are needed in the procedures outlined in the amendments, and in the funding levels proposed. However, it is important to keep sight of the concept of these amendments, namely that a coordinated planning approach is the only way to keep our transportation system a step ahead of our growth.

I'm also aware of objections that may be raised by some municipalities who fear that this bill will erode some of the "home rule" powers. I am the first to agree that home rule is the foundation of strong government. But frankly, I don't see how Transplan compromises local authority? Atlantic County has no interest in zoning, or land use regulation; and we see Transplan as a tool for protecting and providing regional facilities like roads, sewer, and water supply, that municipalities cannot provide on their own. Counties would simply have a great ability to identify and catch spillover effects of growth from one municipality to another.

Coordinating county and municipal planning is the key to guiding growth properly. While some groups have raised valid points, and have suggested some worthwhile amendments, the central concept of the planning partnership must be preserved if we are to move forward.

I recognize that today's hearing focuses on S-2626, but I'd like to briefly comment on the bills. In Transplan, they will also do much to advance our efforts to manage growth efficiently. The Transportation Development District Act is actually much like the approach that we have been using in Atlantic County for over two years. We have two transportation districts set up in our busiest growth areas, and will soon add a third. In each of these districts, the public and private sector responsibilities for major improvements have been identified; and developments are assessed a charge based on the

size and type of the project. This enables projects to move ahead more quickly, and permits us to tie in other funding sources to get needed improvements built on time.

Now, the example that I would like to use as a possible model for transportation networks in the future in working closely with municipal, and city, and county, and State transportation networks, is the Hamilton Township Mall at Race Track Circle in Atlantic County. Approximately a year ago, when the project was starting to finalize, it was learned at that point that the State had met with the Expressway Authority -- the State DOT -- and they had negotiated what they were going to recommend as changes in the circle configuration, and the highway improvements on State roads. But they had totally ignored a county road which they were going to be dumping four lanes of traffic onto. So with our site plan review ordinance that we do have along county roads -- which was enacted in 1978 -- but with our corridor study program that we've been utilizing, we were then at that point capable of bringing the DOT and the Expressway Authority, and others, to our particular table, and those kind of meetings did take place with the threat of a possible legal action from our ordinance.

And the end product was, that when the Hamilton Township Mall is completed later this year, and into '88, there will be a proper county road improvement that will also be meshing with the Expressway entrance, as well as the DOT's U.S. 40 and 322. It was done as a working model between all three groups on a short track period, and it did cause a revision of some of their plans, but it was done at the proper time, and the private sector did contribute towards the improvements. So we feel that that is a model that maybe the Committee would like to look at.

The State Highway Access Management Act also deserves support, since uncontrolled access slows traffic and creates congestion and safety problems. This is also the case on

county roads, and in Atlantic County we have several arterials that approach or even exceed the traffic volumes on State highways. The Access Management Act would permit both counties and municipalities to adopt their own access code, and bring us closer to a safe and orderly highway system.

In closing, let me assure you that we view these Transplan proposals as essential tools for guiding growth, and more importantly, making sure that the State's recent economic gains will continue. I am confident that we will come to an agreement on the fine points of the legislation, and that these bills will prove to be a tremendous benefit to the counties and municipalities alike.

Again, I appreciate this opportunity to offer our insights on this issue, and I look forward to working with your committees in the future. And if you have any questions I'll attempt to answer them.

SENATOR RAND: We're going to ask you questions, Mr. Squires--

MR. SQUIRES: Certainly.

SENATOR RAND: --but if I may for a moment, first let me introduce and welcome Senator Van Wagner, who is Chairman of the Senate County and Municipal Government Committee, who will be co-chairing this joint public hearing. I'd like to welcome also his aide, Hannah Shostack, who is the Aide to the Committee. Senator Van Wagner, would you like to make some comments before we continue? Mr. Squires is our first witness here today, but you might want to make some comments in reference to your Committee, and why you're interested, and so forth.

SENATOR RICHARD VAN WAGNER (Chairman, Senate County and Municipal Government Committee): Well, we have a number of interests. Primarily my overall interest, and the Committee's overall interest, is in the concept of strengthening the overall regional planning aspect of both State, county, and

municipal governments. I realize that when one says that, one risks the ire of those who would be concerned about home rule, and I think, within the context of what home rule is, I think most legislators share that concern. However, it's obvious that as we enter the next decade, and the last decade in this century, that obviously we here in New Jersey are going to have to, let's say, retrofit our planning targets somewhat. Our concern is, how does the concept contained within the Transplan bills -- particularly as they relate to the amendments recommended to the County Planning Act -- how do they overlay with the potential hearings that we will hold relative to amendments that will have the overall effect of strengthening the County Planning Act?

What I would like to be able to formulate with my colleague, Senator Rand, is a comprehensive yet cohesive approach to planning; rather than an overlap of jurisdictions, turf battles, arguments over whose responsibility it is to review, whose responsibility it is to certify. Those are the kinds of questions that I'll be developing as the hearing goes on.

MR. SQUIRES: I think that's exactly what I was trying to address in my last page three, when I talked about the possibilities, just with some fine tuning, that the agencies who already have the individual home rule powers be -- as you used the word -- cohesively put together in a regional planning oversight, or review process. That would certainly be much closer than those who claim they don't have the invitation to sit at the same table, and then at a later date find that they have inherited the problem.

SENATOR VAN WAGNER: Except that I sense that what we're going to have to do as a Legislature is somewhat more than fine tuning; to make that very clear to them who is responsible to do what, who is merely reviewing, who is responsible for certifying. I think that therein lies the rub, as they say.

MR. SQUIRES: No question, because with all the municipalities in this State, we can't speak collectively of their reactions.

SENATOR VAN WAGNER: Thank you, Mr. Chairman.

SENATOR RAND: You're welcome, Senator Van Wagner. By the way, Hannah, let me thank you very much for your analysis -- which we'll make available to all the members of the Committee. Your aide really broke it down--

SENATOR VAN WAGNER: If I might, Mr. Chairman, I'd like to point out that Ms. Shostack is an urban planner, although not a certified planner. She is a trained urban planner, as well as a competent staff member, lest anyone wonder.

SENATOR RAND: Let me ask you a question, Mr. Squires, and maybe I should be directing to you, ma'am, but I'll ask it. Is the questions with Trump's settled, on the little argument between the Department of Transportation, or are we still in a void?

MR. SQUIRES: I guess I don't know the most--

SENATOR RAND: I mean, I'm sure you're involved.

MR. SQUIRES: I'm involved, but I don't know the most recent scenario. I think Donald Trump's arrival in town is going to cure a lot of problems.

SENATOR RAND: Well, his way, or the DOT's way?

MR. SQUIRES: No, in cooperation with DOT.

SENATOR RAND: Oh, fine.

MR. SQUIRES: I mean this won't be the last one -- from what the real estate holdings -- the proposed purchase from Resorts, I think that--

COMMISSIONER GLUCK: (from audience) We are right in the middle of negotiations. Obviously, they have not been concluded. I'm cautiously optimistic.

SENATOR RAND: I certainly have made no comment, but I've read the papers. You see, we get the papers; that's how we know about these things. But I've been waiting very patiently to see whether there is-- If we're going to adopt the viewpoint of the DOT, than either the DOT is going to run these bills, or we're going to let developers run them now. I want to know which one, as far as I'm concerned, very frankly. I don't think we need this Committee then to sit, if we can't work out -- or maybe need this legislation more than ever if that be the case -- but I was just wondering.

MR. SQUIRES: Hazel is doing a good job of bringing it to a solution, I understand. So I think--

COMMISSIONER GLUCK: Just for your own comfort, Senator -- I'm sure I don't have to tell you this -- but we're not about to abrogate our responsibilities in this matter, and if we can't come to an amicable conclusion then we'll just get on with whatever is in front of us.

SENATOR RAND: I would hope you'd say that.

COMMISSIONER GLUCK: Absolutely.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: I just wanted to say I don't read the Atlantic City or Atlantic County paper, therefore you've left me totally in the dark on this issue.

SENATOR RAND: Oh, I'm sorry. I apologize.

SENATOR GAGLIANO: However, now I'm interested.
(laughter)

SENATOR RAND: I though you would be.

SENATOR GAGLIANO: Mr. Squires, what we're trying to do here is set up -- as it says in our notes -- complementary roles in the planning process between the municipal and county levels of planning and government. Do you see any likelihood of functional overlap, or confusion of the precise roles, between the municipal government's role and the county government's role, as a result of the legislation the way it is

currently written? That really follows up on my request to the Chairman that we have a flow chart; because I don't think there's going to be anything worse than a situation where we create a Ping Pong status.

I'm sure you're familiar with -- because I know you've been in government quite a while-- Do you remember how an applicant for any kind of land use development would go to the planning board, and the planning board would consider it one night and say, "Oh no. You belong in the board of adjustment." They'd refer it over, and notices would go out, and the board of adjustment would get the case and say, "Well, we don't have jurisdiction over that part of it." And send it back again. That created a lot of problems, not that we've solved all those problems, but I am concerned about the possibility that we would cause some confusion, and therefore not be able to have our people served properly. In other words, the planning board on the local level -- or the planning boards, if it deals with more than one municipality -- and then the county planning board. I'm very concerned that we delineate each responsibility, so we don't go back and forth month after month, year after year.

MR. SQUIRES: Well, you're right, Senator. Having served in the municipal government for 20 some years, I really knew that the planning boards that you referred to -- it was planning boards, then it was the board of adjustment, or the variance board, or one end to the other municipality, and the forms weren't properly filed. So you lost an awful lot. And the constituency at large felt that no one really knew who and what was-- And of course legal decisions have been rendered over the years.

We in the Atlantic County government have come a long way because, we have a lot of municipalities that have part-time elected officials, and part-time zoning board members and with the exception of those towns that do have a full-time

staff -- which in Atlantic County is a limited number -- we have been very much sort of overseeing and assisting and giving a lot of direction to the local planning boards, with their invitation to do so, so as to help cure our more advanced up-to-date information that we have readily available. That is something that the State of New Jersey has been recognizing in Atlantic County Division of Planning and Development through the CAFRA, as well as the pinelands and wetlands requirements, whenever there is an application. So basically we have up to date information, and most of the municipalities in Atlantic County have in the last two years become more acquainted with, and educated to, and have utilized us either in an official or unofficial capacity -- with the exception of cities like Atlantic City. That would be what I think is the direction that we're all trying to go in, so as to eliminate the second guessing, and also the second direction the regulation would have.

SENATOR GAGLIANO: In your opinion, does S-2626 handle that on a satisfactory basis? You see, we don't have the luxury here -- as I understand it -- of having backup regulations. A luxury; sometimes it's not a luxury, sometimes it's somewhat of a curse. But we generally in our legislation say you leave it up to the Department, the Commissioner, to promulgate rules and regulations that carry out the purpose of the legislation. You won't be able to do that here, I don't feel, with any great amount of success because we start with -- at least it's my understanding -- we start with the local planning board process, and maybe unfortunately I've too much experience with it. I've represented planning boards, I've represented municipalities as a private lawyer, and my concern is that we need smooth operation -- as smooth as possible -- knowing exactly what happens.

That application -- that I talked about before -- comes in for, let's say, the Hamilton Mall. The application after several months of preparation, is filed with the clerk of the planning board. Notices have to go out with regard to the public hearing; 10 day notices to everyone within so many feet of that applicant's property. What happens then, and how does that kick in the county planning board review; and/or the State review from the DOT standpoint, considering that this property is on or adjacent to, or nearby to, a State highway?

MR. SQUIRES: Well, if I may, Senator Rand, and the entire Committee-- Maybe my Planning Director, a member of my cabinet, Rick Dovey, who is working with us every day, and was discussing just this aspect of it -- who did take the personal, shall we say, brunt of the meetings with our attorney at the Hamilton Township Mall. Maybe he can answer your question, Rick Dovey. Is that all right, Senator?

SENATOR RAND: Certainly.

MR. SQUIRES: The question that Senator Gagliano has, is pertaining to the process as it's written in the bill. Will it be as smooth, or is it going to be one-stop shopping, or is it going to be more of a centrifuge?

R I C H A R D S. D O V E Y: We think that it will work very well, and make it very clear for developers who has jurisdiction over which aspect of the proposed development. Right now it's kind of muddy in many cases, and it will give clear direction to the developer when the county, and what the county can review a project on, and also clearly give the county the authority to develop standards and procedures to review a project.

SENATOR GAGLIANO: Okay, but am I correct that under the bill the governing body of each county would provide by ordinance or resolution for: 1) Review by the county planning board of each application for development in the county, for the purpose of determining whether or not that development is a

development of potential regional significance; 2) Review by the county planning board of each development of potential regional significance, for the purpose of determining whether or not the development complies with the planning and engineering standards adopted in accordance with the Act, and 3) Certification by the county planning board to the appropriate municipal authorities, either that the development is not a development of potential regional significance, or that the development is a development of potential regional significance and complies with the planning and engineering standards set forth in the ordinance and resolution as appropriate?

Suppose the county board of chosen freeholders determined that only certain applications would be of regional significance. Can that be overruled by DOT under this bill?

MR. DOVEY: As far as I know, it would be left to the counties to determine locally what their definition of regional significance-- I think that makes sense, because in some counties the county is going to want to take a stronger role, and will be able to provide that stronger role with staff and resources; and in other counties, where growth is not as big an issue and the resources are less, they may determine that they may not.

SENATOR GAGLIANO: I guess I raised the question because that's going to be a threshold issue. Supposing Mercer County -- just throw that out. Supposing Mercer County decided what's of regional significance, and they decided what's of regional significance to them is not what's of regional significance to, maybe, the State DOT, or to someone who's concerned with the Route 1 Corridor. Can we be satisfied that that would be somehow covered?

MR. SQUIRES: I think if you spell out in the-- I mean, I think it could be statewide in the regulations pertaining to exactly what you recognize as a major

development, and one that wouldn't be recognized -- similar to what planning boards do now with the number of units, and they sort of create a plateau for what is the breakpoint of a minor and major subdivision -- in this case -- project. In the bill though it would be-- (inaudible)

SENATOR GAGLIANO: It is defined-- What is "regional significance" is defined, but then it says that the county shall say what it is. Now, I don't understand that entirely, and I'm not trying to put you on the spot. I don't know the answer. It is defined, and would obviously need to be defined, but the county has the right to adopt an ordinance or a resolution in which -- determining whether or not that development is a development of potential regional significance.

MR. DOVEY: I think there's going to be one test for State government -- for DOT -- on projects that impact on State facilities. In counties, different counties have different levels of involvement in drainage and water supply, and sewage.

SENATOR GAGLIANO: Oh, so you think that where it's a county issue, that it would be regulated by county ordinance or resolution, where it's a State type issue it would be regulated by the State -- by DOT?

MR. DOVEY: I think each county needs to have the ability to define that, beyond a certain minimum that this law in its ultimate regulations--

SENATOR GAGLIANO: Okay.

SENATOR VAN WAGNER: Could I make a suggestion?

COMMISSIONER GLUCK: (from audience) I think we can clarify this. I mean, I don't like you to--

SENATOR VAN WAGNER: Can I make a suggestion, Mr. Chairman, through you, sir?

SENATOR RAND: Senator Van Wagner?

SENATOR VAN WAGNER: On the same topic, with the permission of Senator Gagliano? Maybe what needs to be done here is -- I must excuse myself because I haven't really

reviewed other than Transplan -- but maybe the development of some joint planning, and some joint planning criteria, in order to establish exactly what the criteria is that will be utilized for the State to make its determination, the county to make its determination; and for input from those constituent municipalities within that county, and that would involve an assessment process. I think we have a lot of preparation that has to be involved with this if it's going to work in a practical fashion, and I think part of that is to establish the criteria by which determinations will be made as to growth corridors and all. I think, probably within the data submitted by the Commissioner in her Transplan presentation, there is that kind of criteria. I think what has to be done is, it has to be lifted somehow, and articulated in some kind of mechanism that creates a joint planning process -- State, county, municipal.

SENATOR RAND: Thank you, Senator Van Wagner. I think there's no question about it. We're going to have to have a flow chart. There's going to have to be some more definitions between the municipality and the county. But the greatest thing that we have going for us, and I think we overlook it, it's a matter of self-survival. If there's not an agreement between the municipalities and the counties--

SENATOR VAN WAGNER: And the State.

SENATOR RAND: --and the State, then witness Route 1, and come down and see 73 -- and it was on a Sunday and I got held up for one hour yesterday. It's just a matter that, they'd better do it, or else.

MR. SQUIRES: We're experiencing that in Atlantic County more readily every day than we ever would have expected. So I can see back years ago how certain projects had certain funding from the Federal government, or the State government, and where it ended and where it started, and where the roads are no longer--

SENATOR VAN WAGNER: It was called, follow the money.

MR. SQUIRES: Right.

SENATOR RAND: I've got just one more question to ask you, Mr. Squires.

MR. SQUIRES: Certainly.

SENATOR RAND: You said something, and I missed it, about all the communities except Atlantic City-- Could you go over that again for me?

MR. SQUIRES: Well, Atlantic City has a full-time planning staff, and that's basically what I was suggesting. Out of the 23 municipalities it's really the only one that has a full-time planning staff, and of course it also has some casino control legislation that does do certain things, or supersedes other things when it comes to parts of their planning process.

SENATOR RAND: How is the cooperation between the municipality and the county on the development of transportation issues?

MR. SQUIRES: It's getting, hopefully, a little better.

SENATOR GAGLIANO: I was going to say, I would have been surprised if somebody said they had a full-time planning staff in Atlantic City.

MR. SQUIRES: Well, they just hired a planner after six or eight months of having a vacancy, but that's a little too early to answer the question, but your original question-- Let me suggest that it hasn't been a marriage, and we're hoping that it's getting better.

SENATOR RAND: Senator Gagliano, is there anything else that--

SENATOR GAGLIANO: I had some comments on that one, but I won't make them. I think a lot of this will come together with a flow chart, and I apologize to the Commissioner for not asking for it earlier. The issue has been on my mind, I missed the first hearing on this. It's been on my mind because I know that we need a relationship, we need a

partnership between the municipalities that are experiencing growth, and the counties, and the State -- especially the DOT. I think we absolutely need it. However, if we don't do it, so that it flows easily, it will fail. It will fail because people will find ways of avoiding it, rather than work with it. I know that the bill provides for certain notice periods, and for certain information to be going back and forth, but when it really gets down to the actual approval -- we're getting toward a resolution which would grant an approval of a major facility, we're going to have to be very sure that it's a smooth, clear, situation, where everybody knows what their responsibilities are, because otherwise we'll muck it up.

SENATOR RAND: It provides for one other important element; money. There is a component that we haven't even spoke about, which I think is too premature right now; but there is an amount of money -- if I trace the whole thing, with so much money anticipated in the future for county and municipalities. Is that right, Madam Commissioner?

COMMISSIONER GLUCK: Yes, that's correct, sir.

SENATOR RAND: Which might make it a little bit more beneficial for the communities to cooperate.

MR. SQUIRES: Our corridor studies, Senator Rand, in Atlantic County have been very helpful, and they've been very well-received by the private sector. So I mean that's a beginning point of the types of things that Senator Gagliano is referring to, and that is to spell it out directly up-front. One of the things that these hearings will do, hopefully, is give a positive part of what the intent is, as opposed to the negative that some of the groups came up in the negative portion early on. Trying to make sure that they understand, that it's not taking over their entire operation, but basically trying to find a mechanism for a smoother operation.

SENATOR RAND: Mr. Squires, we thank you very much.

MR. SQUIRES: Thank you, Senator Rand, Senator Gagliano.

SENATOR RAND: We thank you for coming down, taking some of your valuable time. Hopefully, we'll be able to report a bill out that does some of the things that we want it to do.

MR. SQUIRES: Thank you very much.

SENATOR RAND: Thank you very much. Wayne Bradley, the Planning Director for Essex County Planning Division? Is Wayne here? (no response) All right, we'll skip-- (inaudible) Pat Witmer, New Jersey State Chamber of Commerce? Good morning.

P A T R I C K J. W I T M E R: Thank you, and good morning. My name is Patrick Witmer. I'm Director of Legislative Affairs for the New Jersey State Chamber of Commerce. I appreciate this opportunity to speak on behalf of the State Chamber concerning the package of legislation known as New Jersey Transplan.

The sponsors of this legislation have presented a comprehensive proposal which would overhaul the transportation planning and management functions of State and local government in New Jersey. These areas need to be addressed by the Legislature and State agencies.

At the same time, however, the State Chamber urges caution in advancing this legislation too swiftly. These bills delegate broad new areas of authority to counties and the State to require land use plans, restrict development, and tax developers. We are concerned that the legislation is so far-reaching that no one can be certain of the effects it will have on development, jobs, and economic growth.

In its annual statement issues at the end of 1986, the Governor's Economic Policy Council recognized that housing construction has contributed significantly to the strength of New Jersey's economy. Since 1982, housing starts in New Jersey have increased sharply, while the national total has been stagnating, according to the Council. During this time, nearly 430,000 jobs were created in our State.

The State Chamber is concerned that a significant slowdown in construction could trigger similar reactions in New Jersey's economy. It is for this reason we have urged that an economic impact statement, as well as a fiscal note, be prepared and made available to the Legislature prior to voting on these measures.

We are hopeful that a balance can be reached in this legislation that will provide a better coordinated transportation planning system, without threatening the continued economic advancement of our State. In particular, the State Chamber believes the following areas of the legislation need to be addressed:

- 1) The municipal-county planning partnership amendments require counties to have planning boards and master plans, but there are no timetables for the establishment of those plans, and no penalties for counties which do not comply. We foresee situations similar to that which resulted with the Solid Waste Management Act of 1970. Some counties still have not met the requirement under that law to establish a suitable solid waste management plan. Appropriate penalties for non-compliance and enforcement provisions are absolutely necessary to meet the goals of this legislation. Others have testified and the State Chamber agrees, that the \$2 million appropriated under the partnership amendments to assist counties in meeting their new responsibilities is far too low.

- 2) The State Chamber is concerned that the State Highway Access Management Act directs the Commissioner of Transportation to adopt a State Highway Access Management Code within one year of the effective date of this Act, and following only one public hearing on the subject. The code seems to be retroactive in that it would set forth alternative design standards for lots in existence prior to the adoption of the code. The State Chamber would strongly oppose granting exclusive authority to the State to mandate the redesigning of

existing driveways or intersecting streets without a provision for State funding to pay for these changes. We are also concerned that no limitations are set for permit fees in this bill. Finally, the Commissioner is granted exclusive authority to revoke an access permit after determining that reasonable alternative access is available for the property. No guidelines or definitions are provided for what constitutes reasonable alternative access under the bill. We view this sweeping authority to revoke existing access permits to be an unfair threat to responsible development interests. A major revision of this legislation is needed. If the Legislature determines that a State Highway Access Code is called for, then definite guidelines for the development of such a code should be provided.

3) The State Chamber strongly opposes the provisions of the Transportation District Act, which grant counties the authority to assess open-ended developers' fees to fund transportation improvements in a designated development district. There is a serious constitutional question in allowing these fees to be assessed on existing developments in which construction permits were issued up to ten years ago. The fair administration of these assessments would be impossible. We believe there is no justifiable reason to require the funding of transportation improvements in designated off-tract areas -- benefiting all who travel through or live in that area -- through assessments only on new developments. The State Chamber also questions the provisions for a special State aid program to provide for matching funds for counties and municipalities undertaking transportation projects. The funding would be subject to the availability of appropriations. We are concerned that a new State aid program is being called for with no direct revenue source to pay for such a fund.

As stated earlier, the State Chamber believes this legislation provides the basis for a program to improve our State transportation planning system, but a great deal of improvements are needed before the proposals become workable. Of utmost importance is the need to eliminate duplicative and overburdensome regulations associated with the proposed new planning process. In order to continue beneficial economic growth, the New Jersey State Planning Commission issued an objective in February, 1987, to "minimize the number and complexity of land development regulations necessary to achieve State planning goals and objectives."

The State Planning Commission is scheduled to issue its preliminary Development and Redevelopment Plan on April 24. The State Chamber urges the Legislature to ensure that New Jersey Transplan and the State's Development and Redevelopment Plan are coordinated, integrated, and free of unneeded regulation. We realize that Commissioner Gluck serves on the State Planning Commission, and I'm sure she's working to ensure that those goals are met. However, we're not certain that other members of the Commission may be so inclined.

Thank you for your attention to these concerns. I will be pleased to answer any questions you may have.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: Mr. Witmer, I have a question, really raising an issue that you brought to my mind, and that's the Metropark Railroad Station. If we had had the type of legislation -- and again, I realize that this legislation needs work -- but in my opinion, if we had had the type of legislation that this constitutes we would not be faced today with the Metropark Railroad Station, which essentially is being suffocated. The development in the immediate area of Metropark has taken place as a result of municipal approvals, which I have basically no objection to -- large banks, large office buildings, all of which needed a certain amount of parking to

accommodate their customers, their clientele, whatever. The buildings are built. Their parking lots are built. And now we have no place to go if we want to expand the parking at Metropark, except to maybe put a second deck on it -- which I understand costs about \$10,000 a space should DOT and the Federal DOT get together and say, "Yes, it would be a good idea for us to do a second, or a second and third deck, at Metropark."

I say this because occasionally I have to go there to pick up one of my children when they come in by train from college, or wherever, and there's no place to park. People park on the traffic islands -- on the little islands that have a little piece of concrete where there is a tree. People will actually pull up on top of that to get their car out of the lane so they can jump on a train. That has happened, in my opinion, because the local authorities were not required really to consult, and to deal with, the problems of overburdening a particular area with construction, and not providing-- Because it would have been very reasonable to provide for additional parking in that area for those who take trains.

I don't know that much about the Route 1 Corridor. I see that as a real problem because Route 1 has become a parking lot, but that's a particular thing that I noticed really within the last month when I went there. The drive for economic development has created all this construction, and I have no problem with that. But nobody has provided for a reasonable amount of parking to go with it. I'm talking about public parking, public access, whatever. I don't even know if there's room there to adequately widen Route 27, because there's been such a tremendous amount of development.

So I think the Chamber has to understand our concern. It's not just that we want to take it out on developers. We don't. There has to be a vehicle -- pardon the pun -- but there has to be some way of establishing joint jurisdiction so

that this can't happen again in some other place. What's your comment?

MR WITMER: Well, we not only understand your concern, but we would support your concern, and it's unfortunate that regional planning in the Metropark area, and dozens of other areas around the State, couldn't have been utilized ten years ago -- or even farther back than that -- so that these problems could have been solved at that point. I would just add that we support the concept behind this legislation, but realistically, to get something passed through the Senate and Assembly this year-- We've seen the problems that, I think it was a 10- or 13-year battle in passing wetlands legislation, and that's certainly not through the full course. It's only through one house of the Legislature. We wouldn't want to see a similar result in this type of legislation, which is very far-reaching. We support many of the goals and concepts behind it, but perhaps we should take things one step at a time, and a few years down the road maybe we can get to many of the things that are covered by this bill. But the first step we would see would be to increase -- not even increase, just to start a regional planning process, rather than be concerned about assessing developers' fees up to 10 years ago, or some of the other problems that I've raised.

SENATOR GAGLIANO: Well, I can understand your concern about that. When you talked about the State Highway Access Management Act, directing the Commissioner to adopt a State highway access management code, and only have one public hearing -- I presume you would suggest at least four public hearings in various parts of the State?

MR WITMER: I think that probably was an overlook in the bill. It does state one public hearing, but a small amendment to the legislation would provide for more, and I'm sure that was the intention anyway.

SENATOR GAGLIANO: And what about the timetable, with respect to requiring the counties to have county planning boards? I didn't even realize that not all counties have county planning boards. What would you suggest, six months, something like that in the bill? A limitation and a-- I don't know how we would penalize them short of-- I mean, you're not going to put a freeholder in jail, hold him in contempt. What are you going to do, just say that they won't be able to take part in whatever funding we deal with? Could that be a proposal?

MR WITMER: That might be a reasonable option to look at. I'm not sure if six months is a little bit too early, but some limitation, and perhaps that option would be reasonable -- with holding of some funds. In some counties, obviously everyone recognizes that county planning boards might not even be necessary at this point -- in some counties of this State which are not as developed as others. But if they don't establish county planning boards now, perhaps ten years from now they would have wished they would have now. So maybe this is the time we support the legislation.

SENATOR GAGLIANO: Well I think in a State as compact as we are, and as prone to development as we have been, I think every county should have a planning board. Those that don't have them and don't have a tremendous amount of development right now, give them up to a year to establish a county planning board. But it seems to me it's for the good of the county, even if they do nothing but disseminate information to the towns -- which they can do -- and do a certain amount of research for the municipalities. I know in Monmouth County the county planning board has a wealth of information about the county, all kinds of things -- aerial photographs, special maps, drainage information. So, I think it is important, and I think we should require it. Thank you, Mr. Chairman.

SENATOR RAND: You're welcome, Senator Gagliano. Mr. Witmer, let me just ask you a couple of questions. First let me address what you said that you wish that some of these places had planning ten years ago. Very true. If we don't do it now, we're going to wish ten years from now that we had done what we're supposed to do now. The truth of the matter is, very frankly, that the economy will be brought to a grinding halt if we allow things to continue as they are now, because you're going to be choked with traffic. You're never going to get to where you want to get to. And the very success that we have now will certainly be cut off. It's a small state, with the heaviest highway traffic in the world. There's more vehicular cars per mile in this State than any place in the world. That's why we try to keep a sense of balance in macadamizing this State. The engineers would have you build roads all over the State, cover it with asphalt, and that's wrong. Certainly you ought to pay more attention to mass transit, and certainly you have to start the planning process. I don't think it's too late, but I think if we wait another five years, it's going to be too late.

Let me get down to some specifics. You addressed that fact that a \$2 million appropriation is too low. What would you suggest? We're going to pay attention to some of your recommendations.

MR WITMER: Well, thank you. In speaking about two or three weeks ago with a representative of the counties association -- League of Counties (sic) -- I believe that representative told me that it was their feeling that ten times that appropriation would be needed -- at least ten times that appropriation.

SENATOR RAND: You're talking about \$20 million?

MR WITMER: And I'm not suggesting that we support \$20 million--

SENATOR RAND: No, no, no. That's all right.

MR WITMER: --but I'm just suggesting that that's on the table.

SENATOR RAND: Listen, I'm willing to listen to anything. Nobody gets whatever they wanted, but somewhere in the middle is an appropriate figure. And I say this because you have some of your representatives from the South Jersey Chamber, and they're going to address Route 70 and Route 73. I'm sure, because if they don't, I'll be sadly disappointed because we have an artery there that's just unbelievably bad, and the Department can't even begin to address it because there's so much confusion, and so much opposition and everything else. So, we appreciate your comments and--

MR WITMER: Well, Senator, perhaps I sound a little too negative here--

SENATOR RAND: No, no, no. That's all right.

MR WITMER: --in addressing just the problems of the legislation.

SENATOR RAND: We're very happy. If we don't hear what the opposition is now, and what some of the corrections are that we should be making, we're not addressing the problem. We promised, very frankly, when we addressed these three bills that we would try to send out a package of bills that would at least help solve the problem that we're facing to the satisfaction of as many people as we can. We're not going to satisfy everybody, but we're going to try to send out a rational bill which addresses the problem.

MR WITMER: Our first priority this year is something that you already addressed last year, renewing the Transportation Trust Fund. I know this hearing is not on that subject, but we are hopeful that the Assembly will take action on that in the very near future.

SENATOR RAND: We're waiting. Thank you very much, Mr. Witmer.

MR WITMER: You're welcome.

SENATOR RAND: Next, representatives of South Jersey Chamber of Commerce, Mr. Bradley, Mr. Kammerer, and Mr. Kelly. Now wait until you hear the complaints on my side, in my town. Okay. Good morning.

A L A N M. K A M M E R E R: Good morning. My name is Alan Kammerer, President of Alan M. Kammerer, Inc., consulting engineers in Medford. I'm also Vice Chairman of the South Jersey Chamber of Commerce Transportation Committee, the organization that I'm representing this morning. We expect to be here also, Robert Kelly, County Engineer of Camden County, who will be here as a member of the Transportation Committee; and also accompanying me is Dennis Bradley, Vice President of the Chamber. The Chamber has about 850 member firms in southern New Jersey.

We appreciate the opportunity to appear before this Committee to express our views on Transplan, a three bill package -- Senate 2626, 2627, and 2628. This legislation is being proposed as a transportation oriented program to promote rational, necessary improvements to the State's entire transportation system.

In our analysis of this package, we felt it best to treat the bills separately. Each measure addresses specific topics with the major thrust of the package dedicated to transportation improvements. After commenting on each proposed bill, we will be happy to answer any questions you might have on that specific piece of legislation.

Our first position is on Senate Bill 2626. This bill, Senate Bill 2626, addresses the implementation of improvements seen appropriate from a State perspective by promoting coordination of State, county, regional, and local governments. Following detailed review, the South Jersey Chamber of Commerce contends that this legislation, if passed, would involve much more planning and coordination than simply transportation. The Act would also totally revise the State's County Planning Statute and the Municipal Land Use Law.

All counties would be mandated to have a planning board and an up-to-date master plan containing a land use element, a comprehensive development strategy, and a circulation plan element addressing all forms of transportation -- including aviation, bus, and rail.

Of major significance is the proposal requiring counties and their county engineers to act as agents for State government, and to negotiate municipal compliance with county plans and development strategies, including design and funding of transportation system improvements. A question arises as to assumption of liability with the imposed delegation.

The Chamber has serious reservations about the provision that stipulates the counties must first review all land development applications -- including simple two lot subdivisions -- to determine if they are projects of regional significance. If the county determines that a project is so classified, the applicant then prepares a full application for review and approval by the county, and county engineer, as agent for the Department of Transportation on public transportation system improvements. County approvals would be necessary for an application to go to a municipality.

The work required of the county by the legislation as proposed is enormous. The existing county resources cannot meet this challenge without significant expenditures. The proposed legislation requires the county planning board to review any municipal master plan, official map, capital improvement program, or amendments thereto, or any ordinance submitted to it to evaluate the degree of consistency with the county master plan. In the event that a municipal master plan, map, or ordinance is not consistent with the master plan, the county planning board shall so inform the municipality in writing, describing the nature of the inconsistency.

There are many hundreds of municipalities in this State that will be sending a tremendous amount of paperwork to county planning boards. The planning board would have to review every local capital improvement program on a yearly basis. Should these documents be inconsistent with the county plan, the county does not have any policy powers. The end result will be friction between the local municipalities and the county.

Many points have been left in the air, such as:

- On items of State jurisdiction, such as highways, mass transit, toll roads, drainage, etc. will State employees be assigned to assist counties?

- Next, will the State accept decisions made by the county concerning State facilities or will they review and override?

- Is there expressed or implied liability on the part of the county government acting on behalf of the State?

- Will a county planning board and governing body review all constituent municipalities' development programs and budgets for capital expenditures as they relate to the integrity of the county master plan?

- The county land use element is to address activities of regional significance, which include airports, mass transportation facilities, wastewater treatment systems, regional educational facilities, and regional parks or regional recreational facilities. Many of these facilities are controlled by autonomous government bodies not answerable to the governing body of the county. Would the planning board now have control over the organizations?

- The county official map, regardless of jurisdiction, shall provide information with respect to the location of streets, roadways, parks, parkways, and highways -- including State highways, either existing or projected improvements. Once the map is established, the county cannot expend any funds

for construction or acquisition unless it is in accordance with the map. This will require annual updating. Will funding be provided by the State?

- Projects of regional significance must go to the Departments of Environmental Protection and Transportation within three days. Do these agencies have time limits for their review?

- If a county planning board, in its master plan, determines that additional improvements to a State highway may be required in the future, these improvements -- including realignment, bypasses, major widening, or grade separations -- may be incorporated into the official map. The county governing body shall notify the Department of Transportation of any projected additional improvements at the time of their inclusion in the official county map. Has any mechanism been established to implement the plan by DOT?

- What is the role of the State Planning Commission in this process?

The proposed legislation puts the county planning board in the middle of the applicant, local municipality, State agencies -- DOT, DEP, Planning Commission -- and the local governing body. It is asked to negotiate cross acceptance of municipal, county, and State planning objectives, which will require major efforts; yet has defined time limits to perform reviews of subdivisions and site plans. This workload is in addition to the record keeping associated with review of all municipal plans and programs. It also includes the additional burden of reviews that have traditionally been performed by New Jersey DOT. To support this new requirement, the bill appropriates \$2 million to the counties. This amounts to only a one-time base payment of \$30,000 to each county. Ongoing funding would become the burden of the counties.

In summary, based on the concerns voiced above, the South Jersey Chamber of Commerce cannot support this legislation for the following reasons:

1) The financial burden on the counties to comply with the myriad of new mandates would be substantial,

2) The legislation has several procedural problems and encompasses much more than transportation issues,

3) The proposed process will add significant amounts of time to the approval process,

4) While regional planning and implementation makes sense, we feel that this proposal is too ambitious and deviates drastically from the original intent.

The South Jersey Chamber of Commerce strongly recommends these points be considered in amending Senate 2626, or in the drafting of new legislation on this topic.

You want us to go all through all three?

SENATOR RAND: I'd just like you to summarize -- if you could paraphrase the last two, rather than just read the entire statement, I'd appreciate that. We'll enter the whole thing in the record.

MR. KAMMERER: Okay. 2627 on the access code is a very short bill. We basically favor the concept, but are -- in the next to the last paragraph-- We support the access code concept, but we are opposed to Senate 2627 as presently formed, unless provisions of the bill are clarified. It is our recommendation that the bill provide for the establishment of a committee to formulate, review, and approve, the standards of the final access code, which would include the local and county officials responsible for enforcement. That may have been the intent, but we did not see that in the bill.

To summarize 2628-- (confers with Mr. Bradley)

SENATOR VAN WAGNER: I don't think you'll get any disagreement on point one, frankly. I think it would be patently unconstitutional to retroactively assess--

D E N N I S F. B R A D L E Y: The first recommendation, Senator, yes.

SENATOR VAN WAGNER: Yes. I don't think anybody will argue with you on that.

MR. BRADLEY: Yes. Okay, fine.

SENATOR VAN WAGNER: I don't know. Do you know anybody that would argue on that?

SENATOR GAGLIANO: I don't see how we could.

SENATOR VAN WAGNER: How do you do that? I don't know.

MR. KAMMERER: The second one we look at is the-- Certain developments that would be within a certain transportation development district might have a disadvantage over someone who is not in that district.

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

MR. KAMMERER: There's concern for that. And the third point, the legislation makes no provisions to pay for existing capacity shortfalls. In our paper we have submitted some alternate funding proposals for the bill, which we request the Committee consider in their deliberations.

MR. BRADLEY: Item number one may be worth reading, on page two.

MR. KAMMERER: Let me read the first one. The Chamber submits the following alternative funding proposal to Senate 2628 for your consideration:

Any new source of revenues required to fund the highway system should be broad based and affect all types of improved property. This could be accomplished with the establishment of a transportation transfer tax collected when improved properties are sold. New properties would be assessed at the time the first certificate of occupancy is received and the assessment would be waived the first time the property is sold.

One of our points with regard to that is, that many of the problems that we face in South Jersey, where we have development that takes place nowhere near a State highway, and yet the impact of that development on State facilities is very significant. But because they are so far removed they don't come under any jurisdiction of any of the State highway

agencies, and yet they are funneling all of their traffic to it. So that there's a question as to whether some of these developments or facilities would be--

SENATOR VAN WAGNER: Subject to a fee?

MR. KAMMERER: Correct. In other words--

SENATOR VAN WAGNER: So what you've proposed is, sort of a county wide sliding scale type assessment, based on the use and proximity of the highway, an impact kind of a tax.

MR. KAMMERER: Correct, impact as far as the traffic impact that they would have, as opposed to the type of development. But we see this quite often in the South Jersey area, where a very very significant development does not even have to go to DOT because they are so far removed from any State highways.

SENATOR VAN WAGNER: If I might, Senator?

SENATOR GAGLIANO: Go ahead, Dick.

SENATOR VAN WAGNER: You're really-- And I congratulate you because you obviously have done a lot of in-depth work in trying to determine--

MR. KAMMERER: Not just myself. This has been a committee function.

SENATOR VAN WAGNER: But your staff and--

MR. KAMMERER: As you can appreciate, there's been a lot of people working on these bills.

SENATOR VAN WAGNER: And I'm very interested in your comments, because what you seem to be saying really in a sense is a point that I was trying to make earlier, that perhaps what we have to be looking at first is the strengthening of the county planning function, per se, and a determination of what that function is. And then try to fit the Transplan -- or at least mold that Transplan into that kind of approach. Rather than establishing a Transplan, and then trying to back counties into some kind of a process which might in effect -- I think Senator Gagliano pointed out -- might in effect be impractical

in a sense; whether it be by virtue of guidelines, criteria, or planning ability. And certainly from a dollar point of view, we would have to provide the support staffs, at least money for the support staffs that it would take to put those kinds of plans together.

MR. KAMMERER: It's very definitely a major problem in the South Jersey area. The county planning boards are very insignificant when it comes to reviewing plans, and true, they don't they have the staff. The municipalities are the primary agencies in the reviews, and the county really only gets involved with what limited staff they have, to the best of their ability, when it affects the county road; and even then they're somewhat handicapped. So that is a major problem in the South Jersey area. We do not have the county staffs or technical staff to really support any of this legislation.

SENATOR VAN WAGNER: I'm not sure that confines itself to the South Jersey area, if you want--

MR. KAMMERER: It may not.

SENATOR VAN WAGNER: I think, my own feeling has been, and only from the virtue of observation, and work in the County and Municipal Planning (sic) Committee -- which I Chair, and did Chair as an Assemblyman for a brief period of time, until they found I love taxation-- That's why I got so excited when you started talking about--

SENATOR GAGLIANO: You never saw one you didn't like.

SENATOR VAN WAGNER: Yes. My Republican friends always say that-- Each election that I run in they usually paint me as a guy that never met a tax he didn't like. (laughter) So, it's something that I'm going to have to live with. I'm Chairing the Taxation Committee.

SENATOR GAGLIANO: They seem to be living quite well, so it's all right. (laughter)

SENATOR VAN WAGNER: Thank you. But really -- Mr. Chairman, if I might-- One of my concerns has been with the introduction of this plan is that are we perhaps putting the cart before the horse? And do we perhaps have to first go in and strengthen, not only the powers of county planning boards, but also the power of municipalities to formulate regional planning mechanisms in and of themselves; and to somehow or other paint that into this broader picture that we're trying to develop as a statewide plan. I think, first of all, it's meritorious that we're planning a highway construction approach, and trying to mold that to development and land use and things like that. I think that's a laudatory goal. But is it your view that -- and I assume it is -- that we should be strengthening the county and local planning functions first, providing them with the resources to do what this is calling on them to do?

MR. KAMMERER: Yes. I think the county is the most critical, because the municipalities for the most part are quite strong. But they're strictly confined within their own municipality, and the county is where the weakness occurs. It appears that back in early '70s there was a lot of county wide planning, and county wide master plans, but many of them have just fallen by the wayside, and have never been kept current.

SENATOR VAN WAGNER: Suppose the county says, "In development of our county plan, we have determined that areas 'A,' 'B,' 'C,' 'D,' and 'E,' involving these eight municipalities -- or 20 municipalities, whatever -- are areas of growth, therefore we recommend these types of developmental patterns for these areas, and the towns that are involved in that" -- which you point out have had ongoing activities for years, and maybe their plan doesn't quite fit that county plan-- What would you propose to resolve that dispute?

MR. KAMMERER: I think it would have to be negotiated with the local municipality, if they can. What you have right now is -- particularly with highways--

SENATOR VAN WAGNER: Would you oppose an overriding authority on counties, to say that this is the plan, and it's up to the municipalities to conform with that plan?

MR. KAMMERER: I would hope it wouldn't be necessary. I would hope it could be resolved between the counties and the municipalities. But if it couldn't, you might have to do that.

SENATOR VAN WAGNER: Okay.

MR. KAMMERER: I think one of the problems that we have right now -- as Senator Rand alluded to -- is the problems that we have with DOT getting projects through municipalities where it's so desperately needed on State highways down in the South Jersey area, and the municipalities are taking such a strong negative stance on it. Yet, if you look at who's taking the stance, it's the municipalities. The county is not getting involved in these at all, which they probably should be.

SENATOR VAN WAGNER: But we have to understand at the same time that those municipalities are charged with the responsibility of supporting their own tax bases, and in essence, supporting the county tax base. So, in a sense, they should have some standing, and perhaps an arbitration process at least, that allows them to at least arbitrate decisions that may be in dispute between counties and municipalities. I think what may cut between just overriding what a municipal grouping may do, is to perhaps establish within this legislation an arbitration process, by which municipalities and counties can come together, work out their dispute in the presence of an arbitrator, and the decision is one that they will have to live by. I have a feeling that we'd create a holy war if we tried to just override municipal planning prerogatives.

SENATOR GAGLIANO: Excuse me, Mr. Chairman, following up on what Senator Van Wagner said-- I think that was assigned to the county engineer, wasn't it, based on what you understand?

SENATOR VAN WAGNER: Does he have that function?

SENATOR GAGLIANO: Yes, but it wouldn't be a good idea. I agree with you. An arbitrator of some kind might be better than to try to burden the county engineer with it. The county engineer has certain loyalties. He's got a loyalty to the county executive, or to the board of chosen freeholders.

SENATOR VAN WAGNER: And it's not cumbersome. You really only have 21 regions in the State.

SENATOR GAGLIANO: Yes. It could work.

MR. KAMMERER: You may even have less than that when you start getting joint--

SENATOR VAN WAGNER: You may have less than that with joint counties, right.

MR. KAMMERER: There's so much joint between the counties that--

SENATOR VAN WAGNER: We've got to start to get the redundancy out. You know? We're doing 50 things over and over again. We keep pumping out this great amount of data, and nobody's doing anything with it. It's all one overlay of data on the other. And it seems to me here's a great opportunity to start to smooth out those wrinkles a little bit.

SENATOR GAGLIANO: Mr. Chairman, through you. Mr. Kammerer, would your committee be able to assist us if we asked you to, by creating a flow chart which you think makes sense?

MR. KAMMERER: I think we have that capability, yes.

SENATOR GAGLIANO: Because I think DOT is going to do it, but from your standpoint -- being a practicing municipal and county engineer -- you might help us by submitting a flow chart which we could follow, which might make things flow more easily.

The second comment that I wanted to make was, that I agree with Senator Van Wagner, that rather than have the county engineer involved, that we have some kind of a separate arbiter -- even if it's a local administrator from a town not affected. It would be a different mind, and not someone who had an allegiance to either side.

The third thing I'd like to suggest is that we have to be very concerned that we don't create another CAFRA type situation, where people are unhappy. They don't know exactly why, but applications seem to disappear. I don't think we want that to happen.

SENATOR VAN WAGNER: Until the 89th day.

SENATOR GAGLIANO: Yeah. We don't want that to happen, because we'd much rather have a common goal of getting things accomplished.

Finally, I'd like to refer to my previous comments about Metropark, to you. Are you familiar with Metropark at all?

MR. KAMMERER: Is it the one near the Parkway in Edison? I'm generally familiar with that area.

SENATOR GAGLIANO: Well, you've seen the buildings grow?

MR. KAMMERER: Yes.

SENATOR GAGLIANO: And we now have a very compressed area, and no more parking -- without tremendous double or triple decking of the existing parking facilities, which would cost, I don't know how much, but I'm sure it would cost several millions of dollars. I think what we're looking for is a way of addressing those issues. Maybe the legislation is too broad, but it's those major components of development which end up causing tremendous problems, whether it's on a State highway or not. I mean, it might be a half a mile from the State highway, but where it affects either the mass transit facilities being able to operate properly, or the road system, or the drainage system. We just have to, I think, zero in on those issues.

For example, I've always been on the Transportation Committee an advocate for park and ride facilities. We're running out of land to buy for park and ride facilities. The land now is \$200,000, \$300,000, \$400,000 an acre. So you can

put, what, 40 or 50 or 60 cars on an acre? Whatever it might be, you can't spend that kind of money on it. And with little advanced planning, we could have had some of that land set aside. It wouldn't have cost anything, and actually would be better for the developer. Whether it be residential or commercial, it would have been better for the developer in the area to provide the parking necessary to make mass transit work. We see it all the time where we're running out of land. So we've got to do it. I just think we've got to narrow the scope of this somewhat.

MR. KAMMERER: I think one of the things that I've experienced as a private consultant that might be even considered during the period this legislation is being studied, is the fact that in many instances where we're involved with DOT, we go to the DOT after we receive the local approval. I had occasion just a few years ago where I knew the DOT was going to build a jug handle at a major intersection. The client went to the DOT, knowing that this was going to happen, but the DOT did not have the funding mechanism at the time to buy the right of way. The development was approved, and as I understand it, the State had to approve the access. It was built, and now they've got to go in and condemn and take it down. If there was some means whereby that coordination could take place now -- I know it's not directly related but I think it's the overall problem you're trying to solve with this package of bills -- I think that would go a long way to cut expenses, and also provide the coordination. But now, you usually go to the DOT after the fact.

SENATOR VAN WAGNER: Mr. Chairman?

SENATOR RAND: Yes?

SENATOR VAN WAGNER: In line with that, you know what I see rising in this whole thing -- and something that I think has been lacking in this State for a number of years -- is we don't really have a formal mediation process in place. We

don't seem to have a process by which one jurisdiction can sit down in a conflict resolution situation, and rectify something proactively. You know? Most of our resolutions seem to come about after there's all sorts of turmoil, and complaints, and back and forth. Oftentimes we wind up here in the Legislature having to put in bills to do things that, you know-- And it seems to me that one of the things that we have to start to do if we're going to really be serious about these kinds of planning acts, and if -- for want of a better word -- land use regulation is really what we're talking about here, that's the name of this game. We ought to build into that some type of arbitration and mediation process so that when jurisdictions have disagreements that they don't necessarily have to always be ironed out in the Legislature, or in court. Somehow or other when I listen to you, and I listen to hearings in my own Committee, that constant cry seems to come forth. It's not articulated sometimes, but it's there. Whether we do it within the rule making process, or the legislative process, I think we have to do it.

SENATOR RAND: Alan, Dennis, this is the first time that you really made your position very clear. Am I right on that?

MR. KAMMERER: Yes. This is the first time.

SENATOR RAND: This is the first time, and you bring up some very serious problems which we're going to have to address. It's funny. Developers come in, I always think, because times are good in New Jersey and they have a market here, and they create a problem very frankly. If they don't come in, they don't bring economic growth. So you have a contradiction in that both, you've got to do something in order to make sure that there's accessibility, and the arteries are open; and if you don't, you begin to choke yourself. Maybe these bills are too broad, and maybe they have to be redefined, and they have to be addressed too. I'm glad that the

Department is here. There are some representatives of the Department here. We thank you very much for your testimony.

MR. KAMMERER: Thank you for the opportunity.

SENATOR RAND: I knew you'd be here, Dennis. Certainly you have a lot of concerns.

MR. KAMMERER: We will be happy to work with the Committee in any way we can.

MR. BRADLEY: Work with the Committee on that flow chart. We will be happy to work with you.

SENATOR RAND: Thank you very much. We are going to have a ten minute break because Senator Van Wagner has to do something on his Committee. But in ten minutes-- It's five after twelve, at a quarter after we're going to reconvene.

(RECESS)

AFTER RECESS:

SENATOR RAND: Mr. Keith Wheelock? Good afternoon sir.

K E I T H W H E E L O C K: Good afternoon, Senator. I apologize for subjecting you to my flu voice today, but at least you don't feel the way I do.

SENATOR RAND: Sounds melodious. That's okay. Go ahead.

MR. WHEELLOCK: Both as Project Manager of Managing Growth in New Jersey, and as Montgomery Township Committeeman, I wish to testify in favor of the draft legislation on county-municipal planning partnership amendments.

I am more than a year into my suburban growth management assignment for the Center for Analysis of Public Issues. I have come to appreciate: 1) the necessarily incremental process of New Jersey State, county, and local government; 2) the importance of preserving the vital "home rule" elements of municipal government; and above all 3) the

common interest of all New Jersey residents in identifying, then addressing essential regional concerns that affect the quality of life for both us, and for successive generations.

I believe that the county planning partnership amendments are a timely and sensitive response to the issues of incrementalism, respect for home rule, and the addressing of essential regional concerns.

Though New Jersey is often characterized as an urban state, nearly six-sevenths of our State is actually suburban or rural. For many years, local municipal planning boards -- which, in my opinion, have functioned better than in any other state for nearly 30 years -- did an excellent job of zoning and planning within their borders.

Initially in northern New Jersey, then increasingly throughout the remainder of the State, the issues and interdependencies that confront local municipalities far exceed their capabilities, authority, and responsibility. Moreover, municipalities are dependent upon an infrastructure for transportation, water, and environmental considerations, that require massive capital investment of State and Federal capital. There are far more needs than available capital. Thus priorities should be established that accommodate both municipal and regional considerations.

The recent fast paced economic development that has provided so many jobs and economic opportunities to New Jersey, together with the Mt. Laurel II stimulated urgency to provide a range of affordable housing to New Jersey's residents, facilitated the bipartisan passage of the State Planning Act of 1986. Some have criticized the cross acceptance provision. For me, cross acceptance reaffirms the essential strength of New Jersey's incremental municipal-county-State partnership.

I find the basis for a similar balance in the draft language of S-2626. I consider it likely that various aspects of the draft bill will have distinct gestation periods. The

portion related to formal county master plans almost certainly will require a number of years, since some among our 21 counties are far more advanced in the practical planning process than are others

There will be ample time for those interested in the county municipal planning process to exchange views, relate this experience to the often parallel effort of the State Planning Commission, and over the months and years ahead to identify increasing areas of common and mutual self-interest.

While this interactive planning process progresses, more immediate urgency should be accorded to a better matching of publicly and privately financed infrastructure investments to the appropriate requirements of current and future New Jersey.

I have examined, then rejected, suggestions that newly created institutions might be best suited for such a task. Within the framework of State-county-municipal government, the counties already have increasingly assumed regional responsibilities. They are experienced in working as an intermediary with both State and municipalities. I consider them well-suited to assume a principal role in establishing, then overseeing, the key regional aspects of significant municipality-by-municipality development.

Regional infrastructure requirements are the appropriate starting point for this process. Of the critical regional infrastructure imperatives identified in S-2626, I consider transportation to be the most urgent. This can be measured by the magnitude of capital expenditures required. Another measure is the cumulative debilitating effect on individual municipalities, were there not an immediate and timely ability to more closely match effective carrying capacity to prospective future traffic volumes.

During the extended transition period in which the State Planning Commission's cross acceptance process and comprehensive master plans in 21 counties are crafted, then subjected to the give and take of public discussion, some positive and tangible interim action is essential. The intention in S-2626 -- to identify, then act on development of potential regional significance -- provides an excellent practical basis for such action.

While the suggested definitions of what might constitute such a significant development seem reasonable, I believe, in reflecting the thinking expressed in the draft McEnroe legislation, that at least one revision might be considered.

In many suburban municipalities, a moderate sized development on a two-lane county road can have a major regional and sub-regional significance. Perhaps such considerations could be accommodated by having a two tier level of criteria. Regional significance in some less developed areas might be defined as more than 100 residential units, or more than 60,000 gross square feet of non residential floor space.

As a non-lawyer, I have difficulty understanding the antecedents and interim implications of the proposed amendment to section six of P.L. 1968, c. 285, C40:24-6-4. I find it unclear what, over the next several years, would be the basis for a county planning board approving or disapproving an application for development of potential regional significance.

I would think that county officials, municipalities, and developers, would welcome such specific guidelines on these criteria. Might these be incorporated within the draft S-2626?

I would like to conclude with some personal remarks from my experience as a governing body member -- and until very recently a planning board member -- in the fast growing community of Montgomery Township. I believe that I and my colleagues have performed better than most, in our efforts to

cope with the current and impending wave of development that is inundating the Princeton Route 1 Corridor to our south and central Somerset County to our north. We need help, and we need it now. Whatever we may accomplish within our borders, and within the constraints and case law of the Municipal Land Use Law, may easily be destroyed by what is likely to occur beyond our borders.

I have found in Montgomery, and in a number of other forward looking suburban municipalities, a strong desire to preserve much of the quality of life that first attracted us as residents. I strongly believe in the grass-roots nature of the municipal process. I further believe that once some of the regional considerations are addressed in a sensitive and appropriate manner, local site plan committees and planning boards are capable of exercising good judgment and applying local knowledge in shaping the quality of specific developments.

But I and my colleagues need your help on such regional matters as are the focus of S-2626. Thank you.

SENATOR RAND: Thank you very much, Mr. Wheelock. Senator Gagliano?

SENATOR GAGLIANO: Yes. Mr. Wheelock, I don't want to take a lot of time, but I again refer to the need for some kind of a chart, so that we can know exactly how this would function. And if maybe this Center of which you're a part would take a look at that, I know we'd appreciate it.

MR. WHEELLOCK: I would happy to do that, particularly from my experience as having been President of the Management Consulting Division of Dun & Bradstreet for seven years. This is one of the reasons that I was sucked into this. In the trade we have something called "the Pharaoh Syndrome - So let it be written, so let it be done." If you remember Ramses II kept saying that, and Moses took his people out of Egypt. So, while one is talking about the overall grandiose plan that may take a number of years to get right, the question is what do

you do in two years that is effective to at least cauterize a hemorrhage that is affecting much of New Jersey? I would be very happy to submit -- through Mr. Manoogian -- some specific comments on that.

SENATOR RAND: Mr. Wheelock, I don't want to ask you an unfair question, but did you hear the previous speaker from the Chamber of Commerce?

MR. WHEELLOCK: Yes, I did.

SENATOR RAND: And of course, he has four points why they oppose it. Do you have any comment on that?

MR. WHEELLOCK: Yes. I do. I think six months ago I would have agreed with him. Either I'm wiser or weaker now.

SENATOR RAND: Tell me why.

MR. WHEELLOCK: I think both. If one is looking for a perfect bill, and there are no time constraints, you can spend ten years. I see that there are some practical mutual interest considerations. Something that I would share with anyone -- and I'd put something like this into a flow chart-- MSM recently did a one page summary of proposed permitted commercial build-out in the area along Route 1. Legally today under the Municipal Land Use Law, 340 million square feet of additional commercial space can be built. To give you a sense of magnitude, the gridlock that one is anticipating now is for 30 million square feet of constructed and on the drawing board development. What is happening here -- and I speak now as a Committeeman in my own township, where I didn't have all these gray hairs when I began--

SENATOR GAGLIANO: And you were 6'3".

MR. WHEELLOCK: Six-five before I started my campaign. (laughter) What is happening is precipitous development that makes irreversible a process in some key areas. Already it is too late. I have tried to identify something that is an interim practical mutual interest approach. That is, identifying developments of potential regional significance,

relate them to criteria that are set forth in the legislation, and then permit a matching of infrastructure needs and capital requirements. If you pardon a euphemism, our transportation network for cars is nothing more than a regional transportation sewer, to which all municipalities can hook in with no hook in charges, and no capacity charges. It's a free ride. We are destroying that capacity, and we are costing the State a great deal of money, and we are hurting responsible developers.

Looking at timeliness, I think it's extremely important -- and I'm not a Cassandra -- extremely important that the first stage of what is being proposed actually be up and functioning within two years. We can wait for the final dottings of the i's and the t's of all of the master plans, but if two years from now one looks back and says, "Now we just about have legislation that may do something," well, we've missed the crisis by another two years, and we've already missed it by five to ten.

SENATOR RAND: Thank you very much.

SENATOR GAGLIANO: Mr. Wheelock, before you leave-- Did you say 340 million square feet would be available in the Route 1 Corridor area for commercial space?

MR. WHEELOCK: It's rather incredible. (hands out chart) As a matter of fact -- I think Mr. Hamill has just left -- but this is taken from the existing master plans of land that is zoned and not yet built out. With my neighbors to the north, Hillsborough, I was so astonished that I checked with their planner, and he said it was correct. Seventy one million square feet is zoned for commercial development in the 58 square miles of Hillsborough.

SENATOR GAGLIANO: Let me try it another way. I don't mean to interrupt, but-- We have an AT&T Bell Laboratories facility in my town, which has I think a million square feet, and which employs approximately 5000 people. I don't know whether that relationship is a fair one, 5000 square people or 4000 square people to a million square feet.

MR. WHEELLOCK: It's a little low.

SENATOR GAGLIANO: That's low?

SENATOR RAND: Are they square people or round people? (laughter)

SENATOR GAGLIANO: Some of them are squares, and some of them are round.

SENATOR RAND: All right, just wanted to know, Senator Gagliano.

SENATOR GAGLIANO: If you're talking about Bell Lab scientists, some of them are real squares. (laughter)

If we multiply it-- Could you multiply that out for me -- if this was developed?

MR. WHEELLOCK: Basically, for a million square feet you are talking about between 3000 and 3500 vehicles in the absence of--

SENATOR GAGLIANO: No, I'm talking about people, but what you're saying is that that will generate--

MR. WHEELLOCK: Yes. It ranges from corporate headquarters would have about 450 square feet per person. A back office operation would have about 180. A campus office would have about 250. The reason I know is that the Dun & Bradstreet subsidiary that I ran, was the location related management consulting corporation. So, on that, assuming for a moment that 10% of that is built, and that it is built at whim--

SENATOR GAGLIANO: Thirty four million square feet.

MR. WHEELLOCK: --a 500,000 square foot building on a two-lane country road, would generate peak hour at least 1800 vehicles -- at peak hour -- when the total carrying capacity of that road in one direction is 2000 vehicles an hour. In Montgomery we have been working with situations where, what the traffic experts call ambient traffic -- it means all the traffic that's generated elsewhere coming through. We see that whatever we do we're going to have gridlock. So by seeking a practical way to match infrastructure, costly developments, and

potential capacity and supply, from a manager's standpoint is essential. From a municipal committeeman's standpoint it's imperative, because at the municipal level, as you know, we do not have any authority over what goes on outside our borders, and we're getting inundated.

SENATOR GAGLIANO: And as the Chairman said, we can end up actually hurting economic development, because we will not have the facilities to take care of the transportation and other things that go with it.

MR. WHEELOCK: I think that's probably the most important point that I've heard today. There are responsible developers who are looking for the long-term. They and people like Squibb, and RCA -- up in Greenwich and Stamford -- Stamford, Pitney Bowes, very responsible members of our society have been hurt tremendously in their recruiting, and in their operating costs, because they have been overwhelmed by spot development. Better planning, a fair share contribution by developers, and an operation that permits these offices to function-- The most important public statement made on this was made by Stan Smith, when he was President of the Management Resources Division of AT&T. He stated in February of 1986, at the Growth Management Conference in Princeton, that AT&T because of quality of life considerations, in their preceding two years located two major facilities out of New Jersey because of quality of life considerations.

From my professional background with Dun & Bradstreet, this is the overriding concern for offices where personnel related costs amount to 70% of total operating costs of a white collar office. If it becomes highly uneconomic to operate, first, you are going to have companies choose not to locate here; more important, you are going to have expansion out of the State, and you're going to have relocation. This has already been happening in Greenwich and Stamford. I think that would be extremely unfortunate for our State.

SENATOR GAGLIANO: Thank you.

SENATOR RAND: Mr. Wheelock, could you just do me one thing very quickly. Take your chart there, go through Franklin Township, start there with the dwelling units that were in 1985, then give me all your definitions right across. Okay, Franklin Township, 12,711 dwelling units were built in 1985. Is that correct?

MR. WHEELLOCK: No, existing in 1985.

SENATOR RAND: Okay. All right, now go to the next one.

MR. WHEELLOCK: Giving a consultant somebody else's chart means I can be very liberal, because I don't understand it. The next number -- and this is from their own master plans -- is the total build-out under existing zoning. It would mean you would have an increase of nearly 8000 dwelling units. The percentage increase would be eight over twelve, roughly.

SENATOR RAND: That's not what's been built, but what can be built.

MR. WHEELLOCK: Yes.

SENATOR RAND: Are they single family units?

MR. WHEELLOCK: In Franklin a number of those would be multiple.

SENATOR RAND: Okay.

MR. WHEELLOCK: But then you get over to-- On "covered employment" I don't know their full definition there, but that's supposed to be employment in the Township, I believe.

SENATOR RAND: Nineteen thousand, seven hundred forty five.

MR. WHEELLOCK: Yes.

SENATOR GAGLIANO: Doesn't "covered" mean just that they are people who are basically on salary?

MR. WHEELLOCK: I don't believe so, because under Montgomery the covered employment of 5300 is basically the magnitude we have that includes the Skillman Institute for Boys, North Princeton Development--

SENATOR GAGLIANO: No, but there are people working there on salary, of some kind.

MR. WHEELLOCK: Oh yes.

SENATOR GAGLIANO: That's what I think covered employment means.

MR. WHEELLOCK: Yeah. Taking the next figure, they don't have the total amount of existing commercial space--

SENATOR GAGLIANO: This is what they can build.

MR. WHEELLOCK: --but they say what can be built is another 30 million square feet. Then they are estimating what this would require, or generate in terms of employment -- which is 113,000. The percentage increase -- and this is a disbalance that is true in everyplace except Princeton Township on this -- the increase in proposed employment is nearly 500%. What you see under "housing to jobs" is that the ratio between housing and to jobs goes from nearly one to one to about a quarter. Now, from my Dun & Bradstreet experience, I will tell you what this means is that you are going to have an extremely tight labor situation where the sergeants -- the people who are making \$25,000 and less -- are not going to be available. This would lead to a disbalance in development. Also, it would lead to some spec buildings, after their lease is up, being abandoned. And this is where--

SENATOR GAGLIANO: This would also mean more transportation requirements, because people have to travel farther to get to those places.

MR. WHEELLOCK: Sir, that is correct, except that you have had overlapping labor markets. And if Monmouth had not developed, or if Hunterdon -- which is now growing on Phillipsburg -- and Allentown had not developed, there would be other places to draw. But for support level people, individuals on the Princeton Route 1 Corridor are finding that New Brunswick serves almost as a Chinese wall. There is no reason for the people to put up with the gridlock of Route 1

and 130, when there is a separate labor market that pays just as well that is within 30 minutes. And again, from my professional background, the median for a support level person commute by car is between 25 and 30 minutes. If they are going much beyond that, they will seek to have a change. So, balanced development, and revitalization of the urban areas is critical to this. I think it would lead to a much healthier jobs and development situation in our State.

SENATOR RAND: Thank you very much.

MR. WHEELLOCK: Thank you, Senator.

SENATOR RAND: Don Scarry, New Jersey Business and Industry Association? He's not here? Okay. Barbara Lawrence, Regional Plan Association? Good afternoon.

B A R B A R A L A W R E N C E: Thank you, Senators. Good afternoon. I came here today prepared to convince you that Transplan was the thing to do. And my statement was prepared with that in mind, but I find myself to be in the luxurious position of hearing such good questions from you that I don't think I have to bore you, to try to convince you that Transplan is basically the thrust of -- and the intent of this legislation is one that we need, and we need now in New Jersey.

Mr. Wheelock just did a wonderful job at presenting you some information that shows how important this is, and how important this is to do now. And I'm going to ask you to think back to some of the testimony that you heard earlier this morning. I came in halfway through that testimony, and I'll ask you just to think of that when you consider perhaps passing one or two of these bills and letting the other languish for a time when we might be able to perfect it. I'm going to ask you not to do that. It will be many months, and even years, before we see the effect of this legislation, and so getting it on the books sooner rather than later is what counts.

I decided this morning when I was driving down Route 1 that we should have a new measure of growth in New Jersey, and that's number of curb cuts per mile, rather than number of people; because as you see they are proliferating before your eyes, and it's time now to begin to do something about those.

I have a couple of facts I'll give you to add to Mr. Wheelock's that I think are equally startling, and the first one I'd like to tell you is that in North Jersey for the past 50 years there's been a direct correlation between rise in income and the number of vehicles on the road. You know that we're all working to keep those rises in income going, but I'll tell you that for every thousand dollars of increased per capita income, in 1984 dollars, means four more vehicles. If that trend continues -- and since it's continued since the '30s, there's no reason to think that it will stop now -- that means we'll have over 50% more cars on the road by just after the turn of the century. That means that no matter what we do in terms of better transportation planning, there are going to be more vehicles. There are going to be more trucks. There are going to be more cars.

What we have to do, and what I would ask you to think about today, is what you can do to keep people from driving those cars. Frankly, I don't care how many cars people have as long as they leave them in their driveway some of the time; as long as they can do things that will enable them to leave them in their driveway--

SENATOR RAND: Keep talking. Keep talking. (laughter)

MS. LAWRENCE: --if they can get to work without having to drive that car. That means doing some of the things that are in these bills before you. That means clustering development. It means doing some things that will put the new development in areas where we already have the infrastructure. You know and I know that we can't afford to build all those roads out in Hunterdon County that the kind of development that's going in down there calls for.

So I ask you to strengthen the legislation. If you do anything to it, strengthen it. Strengthen it so that we can cluster our development. Strengthen it so we can explicitly call for a reduction in auto trips in the kind of planning that we do. Also strengthen it now so that we see that the county has a stronger role to play with the provision of infrastructure so that financing is linked with the planning decisions.

Let's not forget the State Planning Commission. When we talked about it this morning, how to finally make a decision between different views when the county has a view and the municipality has a view-- The State Planning Commission -- thanks to all of you who voted yes on that bill -- is about to begin a process of cross acceptance. When we think of planning, we should think of negotiation. That's what planning is all about. The problem we have in New Jersey is there's not enough planning, there's just reacting. Ask any member of a municipal planning board how much planning they do, and I'm sure the answer you will get, is very little. They spend their time reacting to development proposals. Planning means negotiation. So we have to think about planning in those terms.

And finally, just let me say that we want to see the bills considered as a package, so that we will begin to look at financing, we'll begin to look at regulation and planning as a whole. And we believe those are the kinds of steps that will make a difference in New Jersey, but they're not going to make a difference tomorrow, and that's what we all want. Do let's move the bills sooner, rather than later. Let's not wait until they're absolutely perfect. My vision of perfect, and some of my colleagues' vision of perfect might be different anyway.

So, I want to thank you very much for your time, and I'll take your questions.

SENATOR RAND: Thank you very much for your time. The bills don't have to be perfect, but they do have to have a consensus.

MS. LAWRENCE: Absolutely.

SENATOR RAND: You know, transportation bills are bills that usually-- There are a lot of influences, and a lot of constituencies that are affected. What we try to do on this Committee is to build a consensus. No, we're not going to satisfy everybody. Every builder is not going to be satisfied, and every member of the Chamber of Commerce is not going to be satisfied, but you do have to build a consensus that allows the bill to go out so that we do have support in the public.

MS. LAWRENCE: The public interest is a collection of these private interests.

SENATOR RAND: These are controversial bills, and I would hope that the bills could fly right through. That doesn't seem to be the case, and we're going to have to address it. There's a constitutional question that was raised today. There are some other questions I'm sure that will be raised.

MS. LAWRENCE: And legitimately.

SENATOR RAND: Yes.

MS. LAWRENCE: I mean, I have a vision of how these bills can be improved. I think there should be more explicit goals in mind about what it is that we want to come out of these bills, in terms of clustering development, in terms of putting our emphasis on urban development. Let's make it a clearer definition between where we have development, and where we don't have development. I'd like to see that to be explicitly part of the county's role.

SENATOR RAND: But you are absolutely right, because very frankly, we are doing two things. If we don't do some planning, and don't come to some conclusions on these three bills, we're wasting a lot of taxpayers' money in this State going out there and doing roads, and it's going to be wasted ten years from now--

MS. LAWRENCE: We can't build enough roads to satisfy the people of this State. We just cannot do that.

SENATOR RAND: --and we're spinning our wheels. So hopefully--

MS. LAWRENCE: I mean, I go around telling people that I'm optimistic, and people think I'm crazy. But I am optimistic, because I'm optimistic about the process that we're going through here today.

SENATOR RAND: That's why Senator Gagliano has black hair. It's not gray like the gentleman in the back. He's optimistic.

SENATOR GAGLIANO: Yeah, but I'm losing mine.
(laughter)

SENATOR RAND: Senator Gagliano, do you have any--

SENATOR GAGLIANO: Yes. Are you paid staff for the Regional Plan Association?

MS. LAWRENCE: I'm paid staff. I am the Director of the New Jersey Committee. Tom Stanton of First Jersey National Bank, is the Chairman of that Committee.

SENATOR GAGLIANO: Okay. So you're full-time with the Regional--

MS. LAWRENCE: More than full-time. All these problems demand more than my full time.

SENATOR GAGLIANO: Yes, well, I don't always agree with the Regional Plan Association. I think sometimes they are reacting as the local planning board that meets every Thursday. So, even though you have a role, I don't always agree. I've been here ten years and I'm still not totally convinced. But I'm not here to be critical.

I think we recognize the problem. My concern is that if we do something that is not acceptable, number one, it won't go much further than this Committee; but number two, even if it went through the Legislature, and was signed by the Governor, people would find a way to get around it, not bother with it somehow. That concerns me because look at the CAFRA requirements, where they said you could build 24 units along

the shore. So, people decided, "Yes, we'll build 24 units. Then we'll get a subdivision and we'll build another 24 units. Then we'll get another subdivision and do 24 more." So they got around CAFRA, and the municipalities went along with this charade.

But what I think we have to have -- and the reason that I've asked for the flow charts from various people is that we have to have something that will work and that people will feel comfortable with. And if there's going to be, for example, an assessment based on square footage, or if there's going to be one curb cut for every so many parcels -- or every so many thousands of feet, whatever it might be -- I think we have to pretty much spell that out. We just have to be prepared for the onslaught that will come against it. The 367 municipalities, there are probably 300 and some-- Excuse me. How many municipalities are there?

SENATOR RAND: Five hundred sixty-seven.

SENATOR GAGLIANO: Five sixty-seven. There are 500 planning boards or more, and we've got to rely on every one of them to help make this thing work. And we've done a pretty good job with the Municipal Land Use Law, but now this is, sort of a superimposition on top of that process. We've got to make sure it's right for it to work. You heard from the South Jersey Chamber of Commerce. They came up with several concepts that they can't accept. I agree we have to do it quickly, but it needs a lot more work, I'm afraid.

MS. LAWRENCE: I have concerns about when you say, "square footage limits" too, and it's something that the civic community has been wrestling with for the past year. We have some ideas, and we'd like to be able to contribute to the process. My colleague, Sam Hamill, from MSM was unable to stay, but we have had an ad hoc group meeting for many months about how to improve county planning. I guess I would ask you to include us in the process. It's something that we think

would bring a slightly different perspective to the table, because there are times when we agree with the developers and there are times we agree with the environmentalists, and we're somehow in-between because we include a collection of all of those interests.

I guess there are some times we agree with the municipalities as well, because I mean it's absolutely clear that there are local interests, and local people should be responsible for local interests. That's what they're elected for. But you can't ask local people whose job it is to represent those local interests, to somehow take off that hat and then say, "I'm going to consider the greater good," by whatever means you define that. You can't ask them to do that. That's not their job. They wouldn't be doing their job if that were the case.

And so, as a local person you heard Mr. Wheelock say that there needs to be someone who's taking into account those collective interests. We think it's the county, because the county is already a general purpose government. It's already a local government that is responsive. It has elected officials. If we didn't have county governments here today we'd be asking to invent them.

So, when I say we support these bills, I mean it sincerely. Not every "i," not every dot, not every "t," but certainly the thrust and the intent of these bills is something that's badly needed in New Jersey.

SENATOR GAGLIANO: Thank you. I agree.

SENATOR RAND: Thank you, Senator Gagliano. If you have any suggestions, we'd appreciate if you'd send them to the Committee in writing.

MS. LAWRENCE: Thank you. We certainly will.

SENATOR RAND: Amendments, or suggestions, or any way to improve the bills. Thank you very much.

MS. LAWRENCE: Thank you.

SENATOR RAND: Mr. Winn Thompson, Princeton Area Developers. Mr. Thompson? Good afternoon.

W I N N T H O M P S O N: Good afternoon. My name is Winn Thompson, and I am here today representing the Princeton Area Developers, a group of the principal developers in the Princeton area along the Route 1 Corridor. In addition, I am representing NAIOP -- the office park developers. My statement is a brief summary of a more detailed statement delivered to the Assembly Committee on Transportation and County Government, in January of this year. A copy of this statement is being submitted for the record.

Our group represents most of the major developers operating in the vicinity of the Route 1 Corridor in the Princeton area. We are proud of the contributions that our group has made to the economy and the general well-being of central New Jersey over the past decade. Collectively, we have attracted to New Jersey a long list of high quality corporate clients. Our ventures have provided more than \$1 billion in new facilities, thousands of jobs, and contribute millions of dollars in tax revenues to our communities and the State.

The corporate development in the Princeton area is the envy of our neighboring states. Governor Kean, in his annual message on January 13th recognized much of the improvement and development that has resulted from efforts such as ours in the Princeton area, and similar efforts by high quality developers in many other areas of the State.

As the leading proponent of the Transplan proposal, Commissioner Gluck has recognized that New Jersey, "is in the middle of an economic boom that seems little short of miraculous." She further acknowledges that this, "economic resurgence has been enormously beneficial to our citizens, giving them opportunities for better jobs and for a brighter future for themselves and their families." The Commissioner, therefore, is also on record with regard to the importance of high quality land development.

We, in turn, understand the concerns expressed by the Commissioner with regard to orderly planning and the importance of adequate transportation facilities. We support those efforts that will provide New Jersey with the infrastructure that is needed to sustain not only existing levels of development, but the additional development that must be undertaken if the state of our economy is to remain healthy.

The question before your Committees is whether Transplan, as currently drafted, represents an effective way to provide for the orderly development of our land use resources and the effective construction of necessary transportation facilities. Unfortunately, on this issue, we must differ with the Commissioner. We believe that the Transplan bills as now drafted threaten existing investment in existing developments, and makes highly uncertain the price tag that will be required in order to carry out future development.

These bills would add to what is already a very complex approval process, a totally new level of review and approval that neither guarantees orderly planning nor the construction of essential transportation facilities. They would permit legitimate and essential development to be halted because of exorbitant demands for contributions from landowners to the cost of constructing transportation facilities, that traditionally have been financed on a statewide basis. These bills permit the shift of financing of transportation projects from the public to private sector without limitation. Future development could be halted by the simple expedient of excessive and unrealistic demands for contributions to these transportation facilities.

We urge your Committees not to consider these bills as simply logical extensions of the existing process. They would radically change the ground rules for proceeding with land development in New Jersey. They do this by blank check delegation of power without any assurances that the review and

approval powers vested in State and county agencies will be exercised in a fair and even-handed manner.

As we have noted, we share DOT's concern about the necessity for providing transportation improvements. We have no hesitancy in supporting the approaches that have ensured the production of such needed transportation facilities in the past. For example, we support the DOT request for additional gas tax revenue, provided this revenue will be used solely for transportation purposes.

We find it difficult to understand how reasonable and responsible use of privately owned property in this State can proceed in the face of the obstacles that this legislation as currently drafted can create. Landowners will be confronted with questions that no one can answer, and which are not likely to be clarified for years. This legislation would create a mechanism whereby legitimate land development activities would be submitted to the kinds of pressures, uncertainties and costs that can do serious damage to a vital economic activity which New Jersey is on record as fully supporting.

As indicated in our filed statement, we do not believe there is sufficient information available to justify the passage of the Transplan bills in their present form. We have suggested the creation of a study committee, which could meet at the same time that the DOT and the counties proceed with the development of the codes and plans contemplated by the Transplan bills. The drafting of these proposals would give form and shape to the Transplan concept, at the same time that a study committee addresses the critical issues as to how we are to use our remaining land resources, and how the necessary revenues are raised. We believe that this proposal is the best way to address and resolve the concerns of the Commissioner. The end product will be a more equitable approach to solving these problems.

In summary, I would like to quote from the 18th Annual Report of the State of New Jersey Economic Policy Council and Office of Economic Policy, which warns of the danger of reducing economic development in the growth corridors: "It is this development which provides the fiscal means of bringing economic independence in the cities. Surpluses generated in growth areas can be put to use to provide better conditions for economic development in the cities. Great care must be taken to see that economic growth in the State's corridors is not reduced to the point of eliminating the potential solution to the fiscal problems of declining cities."

We feel Transplan in its current form has the potential to restrict economic development. We are willing to work with the Department of Transportation and any other interested parties to forge legislation that is ultimately in the best interest of the people of this State.

SENATOR RAND: Thank you very much, Mr. Thompson. I am just a little concerned that you didn't say one thing about negotiated agreements, in which we have many in this State with the private sector. In fact, I'm sure you may have been a part of it.

MR. THOMPSON: Right.

SENATOR RAND: We have one individual, or one group, that now for an overpass is willing to pay \$7-1/2 million to \$10 million. Of course maybe that's the way to go, understand, but you don't even mention that. You just put all your eggs in the gas tax. The fellow riding says, "Why should we build an overpass for that developer from my gas tax money? It's only going to benefit him, not me."

MR. THOMPSON: I guess, when I wrote the thing, I included that as part of traditional contributions from developers. I mean, almost all developers -- look at the College Road Overpass on Route 1, which is going to be paid by Princeton Forrestal Center, who is a member of our group.

SENATOR RAND: Yes.

MR. THOMPSON: I mean obviously, we're not--

SENATOR RAND: In fact, we're pushing for him to get it.

MR. THOMPSON: Right.

SENATOR RAND: We're having trouble on this side for the Department to take the money.

MR. THOMPSON: Right. So we have no objection to paying our fair share. That's not really the issue.

SENATOR RAND: I think that's a fair statement. I thank you very much.

MR. THOMPSON: Okay. Thank you.

SENATOR RAND: Glad to have you with us.

MR. THOMPSON: Nice to be here, Senator. I was all set to answer questions about Metropark, but--

SENATOR RAND: Senator Gagliano had to go into another meeting.

MR. THOMPSON: Okay.

SENATOR RAND: Now, if you want to answer some questions about 73, 70, I'll be happy to--

MR. THOMPSON: That I don't know anything about. Okay? Take care.

SENATOR RAND: Thank you again. Mr. Paul Hammann, Madison Borough, New Jersey? Good afternoon, sir.

P A U L L. H A M M A N N: Good afternoon to you, Senator. (hands out copies of statement) As you see on this hand-out, I'm Paul Hammann. I've been a resident of New Jersey, and active in local and county affairs -- including traffic -- especially in the Borough of Madison and the surrounding area. I am pleased today to be here to present my viewpoint on the Transplan legislative package, that is, all three bills.

As a graduate engineer, with 48 years of experience, and currently President of PLH Associates -- which is a systems and management consulting firm -- I have in the past ten years

developed a strong personal interest in traffic congestion in the southeast Morris County area. I have assembled traffic count data on Route 24, and most of the local and county arterial roadways, many of which I have personally counted and observed. I currently serve as Madison's representative on two subcommittees of Morris County's Transportation Coordinating Committee, and also as Chairman of Madison's Traffic Study Committee. I regularly attend planning board work sessions and meetings, and all borough council open meetings as an observer of local government operation. I think I understand what planning boards are all about, but I don't have a real ax to grind because I'm not a member of the planning board. I see it from the outside, and I think that that might be a little different viewpoint than you have from some of the other people.

Now my viewpoint is that the Transplan package would be a giant step forward in controlling the growth of traffic in New Jersey in an orderly fashion. In other words, I am here to support the bills. I believe that these bills are well-thought-out by persons who understand and know the municipal process of handling development applications, and that's a little bit unique. I haven't seen that before. I do think they understand that. Now, why do I think such? I have outlined here just a little summary of what I shall say to you.

First point being that Transplan, in my opinion, is a workable system, and that can't be said for an awful lot of our operations. But the process of municipal, county, and State review, as a combined three organizations for the development of applications, is sound and practical. You get a much better objective look with that arrangement. Now secondly, the time intervals involved are reasonable, and will not inhibit the planning board process. I've mentioned planning boards because most of these come up in the planning boards, but if it happens to be a board of adjustment problem it's the same thing. I've heard some comments about the fact that the 45 days may be a

deterrent, but in checking with other planning boards as well as my own, and seeing the operation, typically these large projects in which the 45 days would be involved go on for months. And that 45 days is not lost because there's a lot of activity at the local planning board that can go on before the, so-called, formal process, or the clock starts.

Secondly, the county is the proper place to provide reasonable perspective. You can't have a State organization give this regional perspective. You can't have the State working with our several hundred municipalities. The State can work with the counties; it's a reasonable number. The counties can work with the municipalities, which is again a reasonable number. If you have a large county, of course there are sections to the county, and an individual can handle each one of the sections. In a smaller county, even one individual can be in charge of that.

There will be a significant change over present procedures, although in our area the county is tending to view more and more of the applications. However, this will be an impact, and of course, the bill provides some monies to get this process started. It's my opinion that getting the process started, since it is a sound process, is very important. Some of the details will have to be modified as time goes on. It will be almost impossible to predict those details ahead of time, so it's important to get it into operation.

Next, the master plan coordination is certainly urgently needed. Most master plans, to date, have just followed some kind of a format which allows them to get past the law. They really do not address anything like a regional traffic mediation problem, or a prevention problem. The cooperation is somewhat mandated between municipality and county. Typically, municipalities don't work together. Adjacent municipalities don't work together at all. But I think, in this particular arrangement where the municipalities

come up to the county -- and there has to be some kind of a coordinated picture there -- that the pressures are such that this will happen, for the first time perhaps. Now, the county has a club too, because they have the State supplying the standards. So the county isn't just acting on its own. I think that arrangement is a workable plan.

The idea of monitoring the effectiveness of the master plans is important. Very little of our municipal operations are monitored: An ordinance is passed, what have you, and nobody checks to see whether or not it's carried out. Monitoring is important.

Now the access code is one of the bills, and is certainly needed. This provides standards, of course not only for the State, but for the county and the municipalities. We have a State road, Route 24, which goes right through our municipality, and so I'm familiar with the problems that come from the State. To say nothing about the safety that ought to be required. There ought to be a uniform set of standards that govern things like shopping centers, the driveways, the accesses, and egresses to these areas; and that ought to be done at the State level.

The development district concept will allow projects to proceed without delay. I think that's an important thing -- the way to get projects started, and get them funded. The assessment of development fees is certainly a timely requirement, because, as everyone knows, there will be less Federal funds for a long time to come ahead of us, certainly. And there's a certain burden on the State that is greater now than it was before. If there is a real need for a development, then the developer will have to contribute his fair share in terms of road improvements. The assessment is to be based on trip generation, and I think that's a commendable thing because that is by and large what causes traffic congestion.

Now, for the first time, I think I see in these bills a philosophy which is expressed on access and protection of public investment in the State highway system. I think that's sensible, and it needs documentation in the statute, because otherwise people get an opinion, and they seem to stick to it. For example, if you own a piece of property you have access to a State road, period. And the State will eventually, somehow or another, provide enough capacity to handle it. Some of this philosophy, I'd just like to list it:

- That certainly, highways are for the safe and efficient movement of people and goods, and I think we kind of forget that at times. They were constructed at great public expense. And they're not easily replaced, so we have to protect them.

- The State has a responsibility to see that there is some kind of functional integrity preserved and not damaged by inappropriate land development.

- Lastly, every owner of property has a right of reasonable access, but not to a particular access. That is, if he's going to put a thousand cars in an hour in a very congested road, he does not have that particular right.

Now along with the fact that I think the bills by and large are a very good, sound package, I have a few suggestions which I have listed here to improve the bills. And I shall read them:

There should be no ambiguity as to where the development applications are to be filed. All development applications must be filed with the local planning board, and not with the county planning board. Now I do not read the bills as saying they should be filed with the county planning board, but I have heard that in discussions in our area. And when these bills first came out people got the impression, since the county planning board was involved, development applications would go the county planning board first, and then

come back down to the municipality. That would be totally wrong. Everything should be handled through the municipality. I mean, it's the municipality that's going to suffer and work with that. They send it on up to the county, and the county sends back it to the municipality--

SENATOR RAND: Why not both at the same time?

MR. HAMMANN: No, because that tends to bypass the local board. It can happen within hours if it goes to the municipality and then they simply transmit the number of copies that are needed to the county planning board. But it's important that that line of communication between the county--

SENATOR RAND: You want to make sure there's a demarcation?

MR. HAMMANN: Right. Okay?

Now the next one is that the traffic impact from the development of potential regional significance would be based on the impact of that development at that location, independent of the number of square feet, or the number of housing units.

SENATOR RAND: How would you measure that?

MR. HAMMANN: Pardon?

SENATOR RAND: How would you measure that?

MR. HAMMANN: Well, that's complicated, and I'm sure you appreciate that.

SENATOR RAND: I mean, we give you a choice in the bill of a lot of things: by the number of cars, by the number of people, the number of employees, the number of visitors.

MR. HAMMANN: The reason that I am concerned about that is--

SENATOR RAND: We have found out that the number per square foot usually generates an amount of employees, and an amount of cars.

MR. HAMMANN: Yes. In general that's true, and the numbers that were expressed here by Mr. Wheelock are roughly correct in that respect. However, the numbers that are used in

the bills are fairly large, namely, 100,000 square feet -- which is equivalent to about 400 cars -- and 250 housing units -- which is also equivalent to roughly 400 cars. So the bills talk about the impact of roughly 400 cars. If you put into our highways today -- our crowded highways during rush hour -- even 100 cars near a very critical intersection, that will have a much greater impact than 400 cars someplace else.

Recognizing that it is hard to specify that, although it can be done engineeringly-wise, nevertheless, a fall back position that I would support would be to reduce that size of the developments that have to go up for review and reduce that by a factor of four. Take the building square footage down to 25,000 square feet -- which is approximately 100 cars -- and the housing units to 65 housing units -- which is again approximately 100 cars. Now granted that some of these will not have a reasonable impact, and therefore, the only thing that's lost in that case is the five days that it takes to go up to the county planning board and back. I think that that would be a fairly simple way to make sure that all of the regional impacts are included in the initial action.

One of the things that we had a lot of trouble with in our area, is that developments start in an adjacent community -- or one somewhat removed from us -- that's going to dump a lot of traffic into our streets; whether they be county roads, or State roads. And we know nothing about it until we read about it in the newspaper. So one good thing about these bills is that there's going to be a lot of publicity as this thing goes up and involves all of the various and sundry organizations. But I would suggest that county planning boards be required to notify all municipalities that will be affected by traffic from a development. I think the bill says something about municipalities within one mile or so of the development, but it's possible today that you could have a road that's four or five miles away, in which all of the traffic is funneled

into a municipality. Now, I think our county planning board is beginning to do that now, as a result of several instances in the last year or so. So there is more notification coming back. It's not a very big job for the county to do that, but the ability to more or less mandate that everyone knows when the development starts in the planning board process that's going to be involved in it, is a very good idea, and that's why I've suggested that.

Okay, that takes care of my comments.

SENATOR RAND: Mr. Hammann, we thank you very much. It's very nice of you to come down, and we appreciate all your recommendations. Again, we thank you.

Bill Dressel, New Jersey State League of Municipalities?

W I L L I A M D R E S S E L, J R.: Thank you, Mr. Chairman. The staff is distributing a copy of the prepared testimony.

SENATOR RAND: All right. I know we have some heavy letters from you.

MR. DRESSEL: Oh yes. We keep you apprised of our deliberations.

Mr. Chairman, in recognition of the growing pressure and need for a new area-wide coordinated planning approach, the League has created a blue ribbon committee to formulate a policy framework to serve as a basis for legislation which will address area-wide growth pressures in a responsive and responsible manner, while preserving local planning prerogatives to as great a degree as possible. Our committee is now in the process of analyzing Senate 2626, dealing with county planning -- which is part of the Transplan package. The committee has tentatively proposed an alternative approach to the regional planning objectives presently set forth in S-2626, which they feel would preserve local autonomy to a far greater degree than would result from the bill as currently drafted.

We have offered four amendments to Senate 2626. If you want to follow with the prepared testimony, we'll begin on page 5:

1) The first amendment that we propose sets up an 18-month-long process for achieving complete consistency between municipalities and counties, which is limited to infrastructure planning and regulation. I will expand on this theme of the consistency requirement applying only to infrastructure elements of master plans in the next amendment. Here we would like to present a clearly defined 18-month-long cross acceptance procedure for both municipalities and counties to follow. Through this procedure we hope that compatibility on issues involving broad patterns of land use between municipalities and counties will also emerge.

Our rationale for establishing an 18-month-long procedure is this: We feel it is imperative that municipal master plans serve as the basic building blocks for the county plan. Then, through the cross acceptance process, county plans should become an accurate representation of future development patterns on a regional scale. As Senate 2626 is now written, the county is required only to look at municipal master plans, and then to hold only one public hearing on their own plan. Our proposal ensures that counties and municipalities both follow a formalized procedure which gives each ample opportunity to address mutual concerns on regional development patterns. I might add that that procedure is outlined on the attachments that follows the formal testimony.

2) Our second amendment proposes the concept of infrastructure development plans, which I will refer to as IDPs. These IDPs will serve as the framework to coordinate consistency in the areas of water supply, sewerage, drainage, and transportation systems. Consistency between municipal and county master plans in these four areas will result in more controlled, coordinated patterns of development. As part of the county master plan and municipal master plans, an IDP in

each of the four functional areas would be required. These IDPs would evolve from land use plans just as infrastructure requirements evolve from the different uses of land for development, agriculture, or conservation. The municipal and county IDPs would be the area in which a consistency requirement would be imposed. We see this consistency requirement as necessary to ensure that county and municipal infrastructure projects are aimed at the same needs for better use of tax dollars. We all see consistency of plans as necessary to ensure that one community's development does not overburden another community's infrastructure.

Work on coordinating the infrastructure requirements of water, sewerage, and drainage systems, is already proceeding. Witness the example of 208 planning by DEP, counties, and towns for wastewater treatment in New Jersey. The real challenge with developing the IDPs will be with the transportation element. This may even involve setting capacity limits for roadways. Identifying roadway improvements and transportation management strategies needed for regional development, not only in the host community, but in neighboring municipalities as well, will also be part of the IDP. Off tract improvements under this concept take on a whole new meaning, which can have far-reaching implications on the shared cost ratios of public/private funding schemes. Needless to say, the coordination of our transportation system's capacity will not be for the faint of heart.

3) The third proposed amendment is the creation of a land use arbitration board of LUAB. Land use courts or boards have been successful in other states in helping to resolve conflicts regarding land use. We think it would be helpful in New Jersey to have a forum for resolving those dispute which increasingly occur between towns and counties in our State over land use matters. Such disputes have become highly publicized, sometimes acrimonious battles among municipalities and higher

governmental levels, which leave the public wondering why their officials can't more civilly resolve their conflicts.

A LUAB would also be the setting to finally resolve the more serious stumbling blocks to achieving consistency on the IDPs, which is something we anticipate may occur.

The League realizes the need for county planning boards to have the power to enforce consistency requirements in the IDPs among towns so that the county plan has actual validity and effect. But there is certainly only slim evidence to date to indicate that counties can do any better than municipalities in planning for an efficient and equitable development process. For this reason, New Jersey's municipalities would be somewhat uncomfortable in having a county planning board be the last word on their IDPs. We have built into the first of our amendments a three month interval and formal mediation to resolve disputes. Only issues which then remain would go to this board for binding arbitration.

We suggest that there be one central State LUAB, with a team of arbitrators, or three to five LUABs each with a regional jurisdiction in New Jersey. The LUAB would be comprised of professional planners, engineers, representatives of DEP, Department of Transportation, among others. The LUAB should utilize one set of statewide infrastructure capacity standards, thereby rendering consistent decisions. The LUAB could serve to arbitrate conflicting infrastructure issues between counties as well as between towns.

This idea is still in a very formative stage. We expect the concept to possibly change shape and evolve in definition as we study it more, and as the legislative process inevitably refines it. Obviously, the creation of land use arbitration boards in New Jersey would involve extensive enabling legislation, and a clear statutory definition of their role in relation to our court system. But we think it is a concept which should now become reality.

4) Our fourth amendment deals with the procedure of preliminary review by county planning boards of projects of regional significance. We felt that if municipalities' IDPs are mandated, and in fact do become consistent with county IDP, then county preliminary review of such projects becomes unnecessary. Municipalities will always have the right to reject applications, so they should retain the right to deal directly from the start with the developer. This would eliminate time, money, and confusion, which would needlessly result from the present Department of Transportation proposal. Consistency exemptions are practiced by both the Pinelands and D & R Canal Commissions, so the idea is not a new one. All development plans would continue to circulate through county planning departments, to ensure consistency is maintained and to update capacity figures in the IDPs. If a certain development breaks consistency, then the county could interrupt a municipal review, or stop the MLUL clock as it is referred to, for a 30-day-period, unless the issue is resolved.

It should be remembered that the proposed requirement in the Transplan bill for a 45-day review period by county planning boards of all the projects of regional significance in that county, will create a tremendous burden on county planning staffs, especially in Bergen County with 70 municipalities. Senate 2626, as it is now written, recognizes that problem by empowering staff to grant project certifications in order to speed the process. The League is quite uncomfortable with this situation, which in effect, lets non elected and nonaccountable staff people decide the fate of a development which could have major economic impacts on communities.

These four proposed amendments are, we realize, major additions to Senate 2626. It is for the Legislature to decide if these amendments ought to be drafted as separate bills, or become part of the present Transplan package. The League has invested much effort in these four proposals, and we would want

to see them enacted at the same time as Transplan. Without them, our objections to Senate 2626 would be sizable.

We have outlined a number of questions in the remaining pages. A number of the same issues have been raised by previous speakers, Mr. Chairman. I think that is the heart of our testimony. I would be glad to address any questions or provide any additional information the Committee may desire.

SENATOR RAND: Bill, first, let me thank you very very much. Second, let me say this. This is not really a fast track. What you've proposed is certainly a de-acceleration, and a very slow process. I'm not being critical of it. I'm just saying exactly what I see. Maybe I'm wrong, but I see a very breaking measure here. I realize your concerns, and very frankly I must tell you this. I spoke to the Commissioner this morning, and I thought we would be able to sit down in the next three weeks and hammer out some amendments that would be satisfactory to the League. But I must tell you this, I don't even think they can be drilled out, let alone hammered out. I mean these are really broad, and they are complicated, and this leaves us in a little different situation, even with some of the criticisms that we got from some of the other groups. But, I'll say this: We're going to have to address them, and we're certainly going to be in conversation with the DOT -- and I'm glad we have representatives here, because, what do you say Mark? (speaking to DOT representative in audience) Maybe we ought to simplify the three bills, rather than begin to use definitions and all. I sometimes think that when you take a bill and simplify it, rather than begin to put all the cumbersome language in it, maybe you're better off.

M A R K L. S T O U T: Mr. Chairman, if I could?

SENATOR RAND: Yes?

MR. STOUT: For the record, I'll say-- Mark Stout, from the Department of Transportation. We have had the benefit of studying this testimony perhaps longer than you have, Mr.

Chairman, since it was given at another place previously. While some of the ideas are certainly far-reaching that the League has put forward, we certainly think they're positive contributions, and we certainly intend -- through your Chairmanship, in whatever forum -- to discuss it with them. We are certainly happy that their contribution has been forward looking and on the positive side, and represents some ideas that we think we can certainly be happy to discuss with them in greater detail.

SENATOR RAND: What this Committee is going to do, very frankly, is ask the Department -- with our technical people, and hopefully with some of the Committee members present -- to sit down with the League and go over this, and we're going to sit down with some other major constituencies and see if we can hammer out anything. I don't know if we can or not. Certainly we can't do it for three or four weeks, but hopefully within the next month, we are going to do that. Bill?

MR. DRESSEL: Mr. Chairman, let me assure you that the thinking in this position paper that we've presented, is the product of extensive deliberations among the League, county officials, engineers, planners. It has taken us approximately eight months of almost weekly meetings on this testimony. We have shared this thinking not only with the various State agencies, and your Assembly counterpart -- the Assembly Transportation Committee and their sponsors -- but we have sent this position paper to every mayor, every planning board, every planning board member in the State of New Jersey. We have done a ballot as to what their thinking is on this, since this recognizes a departure from the traditional planning scheme as we know it in New Jersey. And we're receiving those ballots every day. What we think we're seeing, Mr. Chairman, is a mandate by our membership -- by the 567 municipalities out there -- to pursue this legislation along these lines. It is a departure from the way we have been traditionally looking at

land use planning for communities to undertake, but we believe it's a constructive departure. I can assure you that we look forward to working with your staff, with the various State agencies, but I think our mandate is rather clear-cut.

SENATOR RAND: Yes. You weren't bashful in your presentation. (laughter)

MR. DRESSEL: Well, we have a tendency not to be bashful these days, Mr. Chairman.

SENATOR RAND: Yes. You really are pretty definitive these days; what you're for, and what you're not for.

MR. DRESSEL: Well, the Legislature and the Governor's office has been rather definitive.

SENATOR RAND: Since I have 14 municipalities--

MR. DRESSEL: Yes sir.

SENATOR RAND: --I certainly pay attention. But I do thank you very much. You will be hearing from us shortly.

MR. DRESSEL: Very good.

SENATOR RAND: And we will ask you to sit down with the Department. Is that right, Mark?

MR. STOUT: Yes sir.

SENATOR RAND: And we intend to address your concerns, as well as some of the other concerns.

MR. DRESSEL: Good. Look forward to it, Mr. Chairman.

SENATOR RAND: Again, thank you very much.

MR. DRESSEL: Thank you very much.

SENATOR RAND: Mr. Pizzutillo? You're a late entry.

A N T H O N Y P I Z Z U T I L L O: I was a late entry. (laughter)

SENATOR RAND: That's all right. We'll hear you out.

MR. PIZZUTILLO: Thank you. My name is Tony Pizzutillo. I'm Director of Governmental Affairs for the New Jersey Builders Association. And what I've handed out is a copy of our transcript, testimony, for the total Transplan package. What I'd like to do is simply leave most of it for the record, and address simply S-2626.

The NJBA understands the necessity for adequate transportation facilities. We also understand the importance of adequate financing for transportation projects. Most people will agree that our State's transportation network needs significant enhancement and expansion. Further, I think most will agree that the process should entail the following:

- A thorough and statewide assessment of our current roadways,

- Projections of where growth will occur in employment and in population, and an analysis of the commutation patterns that will result,

- Projections of our future transportation needs, including mass transit, with phasing and cost schedules estimating the timing and costs of addressing these needs,

With such a plan in place, both sectors -- private and public -- and all levels of government will be in a position to respond in a concerted, coordinated effort. Financing could be planned, and production plans arranged in ways that will support timely response to the public's needs.

Over the next few months, some of the critical data for a thorough examination will become available when the State Planning Commission announces its draft plan in July of this year. It is certainly premature to put forward a proposal as sweeping as Transplan without the benefit of the Commission's work. The Transplan proposal does not address the foregoing, but instead:

- introduces new layers of review,

- imposes added tax burdens on selected segments of the population and work force, and

- grants sweeping discretionary authority to the DOT without previous adequate legislation guidance or oversight.

Now, let's talk specifically about S-2626. I'm skipping all over the place, and I'm leaving out the rhetoric.

SENATOR RAND: Fine.

MR. PIZZUTILLO: It's late, and I'd like to get to the heart of the issue.

With regard to this piece of legislation, it proposes a substantial change in the role of county government with regard to land use development. Currently, county planning boards review is limited largely to the adequacy of drainage facilities, and the impact of development on county roads. In New Jersey, with our tradition of home rule, the municipalities are the lead level of government for most land use and planning decisions.

Needless to say, this legislation would significantly shift the responsibility of land use decision to the county. Most existing county planning board staffs are not prepared to undertake the additional powers that this bill contemplates. I think a number of those who have testified made that point.

The legislation would require projects with regional significance to conform to county master plan provisions, relating to transportation, as well as water supply, sewerage, wetlands, recreation, and conservation. Towns would be stripped of their power to grant site plan approval, unless a county planning board permits it. Counties would also be empowered to force municipalities to change their local master plan to conform with the land use element of the county plan.

Section seven of the bill expands the concept of review and approval on the county level. The county review provision in this legislation merely adds a new element of uncertainty, new sources of delay, and increased costs, without in any way relieving developers from what is already a lengthy and expensive process for permit and approval. The existing approval process in many areas of New Jersey often extends to more than two years. The delays and uncertainties it involves adds to the cost of available places to live and work in this State. These costs are an invisible tax imposed on our citizens, and nowhere in Transplan can you find benefits that would justify its cost.

Section 29 of this legislation requires the county planning boards annually to prepare a capital improvement program consistent with the master plan. The program must inventory all proposed and recommended public improvement within the county, regardless of governmental jurisdiction. The initial five-year plan must be consistent with, and incorporate any transportation improvement program, which the county submits to the DOT. The five-year plan must include all projects to be undertaken during this period, and the funding sources, including private funding. This capital improvement plan, which is not mandated to be actually undertaken or constructed, can be used as a justification for prohibiting projects that will respond to market demands.

Moreover, the program can be used as a mechanism whereby the county can justify substantial amounts of funding from developers in order to pay for improvements. Ironically, the fee taken from developers that are not used for the construction of transportation improvements, can be used for the payment of debt incurred under any debt instrument which the county may be authorized by law to issue. Such provision hardly reassures developers that assessments would be reasonable, or that contributions once made will promote improvements.

Now, I want to stop there with regards to the testimony, and speak specifically about S-2626. I've had a chance to review this legislation, and as Senator Gagliano had stated prior, what we need is a flow chart to determine what the process is; because when we think about it, many of those who testified before, here today have been public officials, certainly concerned about development in their towns, but most of all we've heard from a few of those who have to place the private sector risk -- the risk of putting up dollars to invest and to develop the project. It is here where we tend to forget of what is the vested interest. The vested interest is to put forth an efficient process in which approvals can be made.

In looking at the process that is stipulated in the existing legislation, and hearing comments from various planners that spoke here today, there does not seem to be an efficient and clean-cut process. There seems to be a rudimentary process established whereby applications have to be submitted to the county, and then once they are screened they are to be submitted down to the lower level for those that are not of the regional significance, and then they are to go through with their course of action. In addition to that, there has to be State input from the DEP, as well as the DOT. Well, we find that to be quite ambiguous, and time consuming. Basically living in the process and understanding the time frames that are necessary for permits to be achieved from the DEP and the DOT -- specifically the DEP -- we find some of the windows of justification in which a time frame is established for approval to occur, to be quite unrealistic.

Anyway, what I'm saying is that instead of having a clean-cut flow chart, what we're seeing is basically a lot of looping regulatory process that are swirls, instead of the Ping Pong effect that Senator Gagliano stated -- which a developer would be forced into. I see it more as those Ping Pong balls floating in the Lottery selection, in which they're swirling around going nowhere. Basically that's our major concern, because delay means money, and money that is only passed on to the potential consumer.

Therefore, speaking specifically for residential development, and the potential home buying market, and the public policy question that we have here with regards to affordable housing, we find there has to be much more work needed. We're recommending that there should be an infusion, a definite participation of the private sector in looking at this. Our issue is not home rule. Our issue is putting together a process that is efficient, and not time-consuming. So therefore our recommendation is that, through the Chair we

work as a group, not only with this particular piece of legislation, but the other pieces that we can get into at a later date; because we feel that our input has not been placed, at least in the introductory stages of proposing this legislation. Thank you,

SENATOR RAND: Mr. Pizzutillo, thank you very much. I'd have been disappointed if you hadn't been here today.

MR. PIZZUTILLO: I'm sorry?

SENATOR RAND: I said, I would have been disappointed if you hadn't been here today. In summary, you don't like the bill, but we appreciate your-- Very seriously, you heard there are some major concerns with the bill, and there are major problems with the bill. You heard the DOT, and certainly you're not going to be excluded from the process.

MR. PIZZUTILLO: Thank you.

SENATOR RAND: We expect to include everybody in the process.

MR. PIZZUTILLO: Great.

SENATOR RAND: We will hammer out a consensus bill, and again, or we won't hammer it out. That's all. Hopefully, we can hammer out a bill that addresses -- doesn't satisfy everybody -- but certainly addresses our needs, which I think we need genuinely because you builders are going to stop building if we don't have a process which delivers an orderly flow of traffic. They're not going to come in and build that 300 million square feet that I heard about today-- They only build when there's a market for them to build. And if there is no market for them to build, they're not going to build on the good graces of projections, or hopes, or dreams. They build on market analysis, which says, "Yes we can rent here at this area," or, "We can build here." So we have a mutual interest.

MR. PIZZUTILLO: Great.

SENATOR RAND: A mutual interest in adopting a bill which will create a process that protects the State and protects us, and gives you an orderly flow without impugning on your rights, and without hammering anybody over the head. If we can get that, we can accomplish something. And if we can't get that, well, then we're in serious trouble.

MR. PIZZUTILLO: That's right.

SENATOR RAND: But I do thank you very much.

MR. PIZZUTILLO: Thank you.

SENATOR RAND: Is there anybody else that we-- Mark, did you want to say something in conclusion or have you heard all that you want to hear?

MR. STOUT: No sir. We'll study it all very carefully.

SENATOR RAND: All right. Thank you very much, and thanks everyone for coming.

(HEARING CONCLUDED)

APPENDIX



SOUTH JERSEY CHAMBER OF COMMERCE
STATEMENT ON
TRANSPLAN
SENATE 2626, SENATE 2627 & SENATE 2628
THE SENATE TRANSPORTATION & COMMUNICATIONS COMMITTEE
AND
THE SENATE COUNTY & MUNICIPAL GOVERNMENT COMMITTEE
STATE HOUSE ANNEX
TRENTON, NEW JERSEY
APRIL 6, 1987



SOUTH JERSEY CHAMBER OF COMMERCE
POSITION STATEMENT
SENATE BILL 2628
TRANSPORTATION DEVELOPMENT DISTRICTS

This Bill enables New Jersey counties to establish transportation development districts, or TDD's, with the approval of the State Department of Transportation. It also authorizes the New Jersey Transportation Trust Fund Authority to advance cash loans for TDD projects, and provides for a special state aid program with matching funds for fees that are assessed by the counties for TDD projects.

While the theory behind this legislation may appear to have merit, we cannot, for several key reasons, support this Bill. Three serious shortcomings exist in Senate 2628.

1. The proposal to assess existing commercial facilities retroactively for a period of ten years appears to be unconstitutional. At a minimum, it is not economically viable. To levy a fee against existing commercial buildings will result in increased costs being passed along to tenants where the market can bear higher rents. Where the market won't permit increased rents, building owners must absorb this cost or go out of business. This proposal also inequitably levies a tax on commercial properties when both commercial and residential property combined cause the need for highway improvements.
2. The legislation creates the possibility for one growth area to face extensive fees while a neighbor in the same corridor, but not in the TDD, will have no fee at all. Businesses within the transportation development districts will face an economic disadvantage.

3. The legislation makes no provision to pay for existing capacity shortfalls. If an equitable means to assess a fee could be developed, one must not be assessed for past shortfalls. This burden must be levied on the population at large. A provision must also be made for future background growth.

The South Jersey Chamber of Commerce believes that the development community expects to pay for improvement needs such as acceleration and deceleration lanes directly attributable to them. We also believe that developers would pay for highway needs they cause if provided with a fair and equitable system. If an assessment is to be levied, it must be levied against both residential and commercial development. If a fee is to be retroactive, it must be retroactive against all structures (buildings) and not just ten years back.

The Chamber submits the following alternative funding proposal to Senate 2628 for your consideration:

1. Any new source of revenues required to fund the highway system should be broad-based and affect all types of improved property. This could be accomplished with the establishment of a transportation transfer tax collected when improved properties are sold. New properties would be assessed at the time the first Certificate of Occupancy is received and the assessment would be waived the first time the property is sold.

2. Realizing that some forms of development have greater impact on the road systems than others, different rates would be required. This could be accomplished using the different building types already established in the building codes. Obviously higher traffic producers such as office buildings and shopping centers would have higher rates than warehouses and residences. No tax would be assessed on the sale of unimproved property.
3. Distribution of funds raised through this tax should be handled on a county basis. County government could allocate monies to make required improvements as development occurs and also within Transportation Districts to encourage development in certain areas.

The South Jersey Chamber of Commerce contends that this recommended funding mechanism will provide the state with a broad-based, ongoing source of income to maintain the highway system and keep up with development of real property. It will also provide for changes in traffic patterns caused by people changing office locations and residences.

The South Jersey Chamber of Commerce would be happy to work toward developing reasonable guidelines for improving New Jersey's transportation system.

SOUTH JERSEY CHAMBER OF COMMERCE
POSITION STATEMENT
SENATE BILL 2626
REGIONAL PLANNING & ZONING

This Bill, Senate 2626, addresses the implementation of improvements seen appropriate from a state perspective by promoting coordination of state, county (regional) and local governments. Following detailed review, the South Jersey Chamber of Commerce contends that this legislation, if passed, would involve much more planning and coordination than simply transportation. The act would also totally revise the state's county planning statute and the Municipal Land Use Law.

All counties would be mandated to have a planning board and an up-to-date master plan containing a land use element, a comprehensive development strategy and a circulation plan element addressing all forms of transportation including aviation, bus and rail.

Of major significance is the proposal requiring counties and their county engineers to act as agents for state government and to "negotiate" municipal compliance with county plans and development strategies, including design and funding of transportation system improvements. A question arises as to assumption of liability with the imposed delegation.

The Chamber has serious reservations about the provision that stipulates the counties must first review all land development applications, including simple two-lot subdivisions, to determine if they are projects of regional significance. If the county determines that a project is so classified, the applicant then prepares a full application for review and approval by the county,

and county engineer, as agent for the Department of Transportation on public transportation system improvements. County approval would be necessary for an application to go to a municipality.

The work required of the county by the legislation as proposed is enormous. The existing county resources cannot meet this challenge without significant expenditures. The proposed legislation requires the county planning board to "review any municipal master plan, official map, capital improvement program, or amendments thereto, or any ordinance submitted to it to evaluate the degree of consistency with the county master plan. In the event that a municipal master plan, map or ordinance is not consistent with the master plan, the county planning board shall so inform the municipality in writing, describing the nature of the inconsistency."

There are many hundreds of municipalities in this state that will be sending a tremendous amount of paperwork to county planning boards. The planning board would have to review every local capital improvement program on a yearly basis. Should these documents be inconsistent with the county plan, the county does not have any policy powers. The end result will be friction between the local municipalities and the county.

Many points have been left in the air, such as:

- * On items of state jurisdiction such as highway, mass transit, toll roads, drainage, etc. will state employees be assigned to assist counties?
- * Will the state accept decisions made by the county concerning state facilities or will they review and override?

- * Is there an expressed or implied liability on the part of the county government acting on behalf of the state?
- * Will a county (planning board and governing body) review all constituent municipalities' development programs and budgets for capital expenditures as they relate to the integrity of the county master plan?
- * The county land use element is to address activities of regional significance which include airports, mass transportation facilities, waste water treatment systems, regional educational facilities and regional parks or recreational facilities. Many of these facilities are controlled by autonomous government bodies not answerable to the governing body of the county. Would the planning board now have control over the organizations?
- * The county official map, regardless of jurisdiction, shall provide information with respect to the location of streets, roadways, parks, parkways and highways, including state highways, either existing or projected improvements. Once the map is established, the county cannot expend any funds for construction or acquisition unless it is in accordance with the map. This will require annual updating. Will funding be provided by the state?
- * Projects of regional significance must go to the Department of Environmental Protection and Department of Transportation within three (3) days. Do these agencies have time limits for their review?

- * If a county planning board, in its master plan, determines that additional improvements to a state highway may be required in the future, these improvements (including realignment, bypasses, major widenings or grade separations) may be incorporated into the official map. The county governing body shall notify the Department of Transportation of any projected additional improvements at the time of their inclusion in the official county map. Has any mechanism been established to implement the plan by the DOT?
- * What is the role of the state planning commission in this process?

The proposed legislation puts the county planning board in the middle of the applicant, local municipality, state agency (DOT, DEP, Planning Commission) and the local governing body. It is asked to negotiate cross acceptance of municipal, county and state planning objectives which will require major efforts, yet has defined time limits to perform reviews of subdivisions and site plans. This workload is in addition to the record keeping associated with review of all municipal plans and programs. It also includes the additional burden of reviews that have traditionally been performed by New Jersey DOT. To support this new requirement, the Bill appropriates \$2,000,000 to the counties. This amounts to only a one-time base payment of \$30,000 to each county. Ongoing funding would become the burden of the counties.

In summary, based on the concerns voiced above, the South Jersey Chamber of Commerce cannot support this legislation for the following reasons:

1. The financial burden on the counties to comply with the myriad of new mandates would be substantial.
2. The legislation has several procedural problems and encompasses much more than transportation issues.
3. The proposed process will add significant amounts of time to the approval process.
4. While regional planning and implementation makes sense, we feel that this proposal is too ambitious and deviates drastically from the original intent.

The South Jersey Chamber of Commerce strongly recommends these points be considered in amending Senate 2626 or in the drafting of new legislation on this topic.

SOUTH JERSEY CHAMBER OF COMMERCE
POSITION STATEMENT
SENATE BILL 2627
STATE HIGHWAY MANAGEMENT CODE (ACCESS CODE)

The purpose and intent of this Act, Senate 2627, is to adopt a State Highway Management Code (Access Code) which would prescribe standards for driveway design and spacing for specified classes of highways in the state highway system.

The South Jersey Chamber of Commerce endorses the intent of this Act to standardize criteria for the various classes of highways throughout the state. However, we feel that prior to passage of the Bill, an opportunity should be given for review and comment on the specifics of the Access Code, which we understand have not yet been developed. We have learned from experience that the intent of legislation designed to accomplish specific goals, such as this Act, may be misunderstood or misinterpreted by those charged with implementing the actual regulations required by the legislation.

The Chamber recommends a joint committee be established from members of the county engineers and municipal engineers associations to assist in the development of the Access Code, or as a minimum, to review and comment on the Code. Many of these professionals will be charged with the responsibility, on the local level, for the review and approval of applications with regard to driveway access.

We concur with many of the provisions contained in Senate Bill 2627, including the proposal directing the state to continue the process of reviewing access permits along state highways. We support the provision that authorizes the state to purchase property rendered useless as a result of the improvements to the state highway system. However, we recommend that each purchase be

evaluated on a case by case basis. We further recommend that this provision should not be limited to properties along "limited access highways" but should include arterial roadways.

Other portions of the Bill require further explanation such as the following in section 15-2a: "Except as otherwise determined by the commissioner based on the public interest, the commissioner shall construct every state highway, or portion thereof, located on new alignment on a limited access highway." Does "new alignment" mean, when additional right-of-way is required for the construction of new roadways? Or, on all reconstruction, horizontal as well as vertical?

There are also portions of the Bill which would appear to create a hardship to a property owner along a state highway, such as the revocation of an existing access permit previously granted which does not presently conform to current standards.

In summary, the South Jersey Chamber of Commerce supports the Access Code concept, but is opposed to Senate 2627 in its present form unless provisions of the Bill are clarified. It is our recommendation that the Bill provide for the establishment of a committee to formulate, review and approve the standards of the final Access Code, which would include the local and county officials responsible for enforcement.

The Chamber would also welcome the opportunity to review and comment on final Access Code regulations prior to adoption.

Figure 3

Preliminary Findings
Subject to Review

REGIONAL FORUM

A COMPARISON OF CURRENT DEVELOPMENT CAPACITY TO PROJECTED CAPACITY (BASED ON ZONING YIELD ANALYSIS)

DRAFT

	Dwelling Units 1985	Dwelling Units Build-out	Percent Increase		Covered Employment 1985	Non-Res sq. feet to come*	Covered Employment Build-out	Percent Increase		Housing to Jobs 1985	Housing to Jobs Build-out
Crarbury Twp. (A)	864	3,264	278		5,270	14,740,000	51,103	870		.16	0
East Brunswick Twp.	14,023	16,543	18		19,733	15,463,800	55,176	180		.71	.30
Monroe Twp.	8,632	not avail	not avail		1,209	not avail	not avail	not avail		7.14	not avail
North Brunswick Twp.	9,550	13,457	41		22,256	7,340,000	47,156	112		.43	.29
Plainsboro Twp. (A)	6,626	7,916	19		3,178	6,800,000	25,778	711		2.08	.31
South Brunswick Twp.(E)	8,090	15,812	95		9,509	44,746,000	112,379	1,082		.85	.14
✓ Franklin Twp.	12,711	20,391	60		19,745	30,105,000	113,320	474		.64	.18
Hillsborough Twp.	9,386	17,759	89		2,308	71,518,000	208,432	8,931		4.07	.09
Montgomery Twp.	2,862	16,256	468		5,374	5,194,690	25,223	369		.53	.64
East Windsor Twp.	8,518	11,030	29		7,258	35,542,000	83,486	1,050		1.17	.13
Ewing Twp.	12,378	14,516	17		14,637	6,084,000	27,012	85		.85	.54
Hamilton Twp. (A)	32,146	37,932	18		20,627	41,854,000	154,113	647		1.56	.25
Hopewell Twp.	3,847	16,571	331		2,924	16,490,000	42,764	1,363		1.32	.39
Lawrence Twp.(E)	7,704	13,722	78		17,357	23,116,000	73,167	322		.44	.19
Princeton Twp. (A,E)	5,324	9,934	87		3,393	822,000	6,277	85		1.57	1.58
Washington Twp. (E)	1,981	7,865	297		1,455	8,700,000	24,522	1,585		1.36	.32
West Windsor Twp. (A)	3,678	16,353	345		9,381	11,873,081	54,477	481		.39	.30
MSM REGION	224,827	324,460	44		234,111	340,388,571	1,174,092	402		.96	.28
NEW JERSEY	2,951,523				2,811,227					1.05	

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Compiled by the MSM Regional Council, 1987
The MSM Region includes Mercer County and the southern parts of Middlesex and Somerset Counties.

NOTES: * based on Zoning Yield Analysis

E: Vacant land may include environmentally critical areas

A: Vacant land may include land with approvals for development

ASSUMPTIONS ON AVERAGE SQUARE FEET PER EMPLOYEE:

Office/Research: 1 employee/250 sq.ft.

Comm/Retail/Prof: 1 employee/600 sq.ft.

Manu/Ware/Flex: 1 employee/500 sq.ft

STATEMENT BY PRINCETON AREA DEVELOPERS, INC.
SUBMITTED TO THE ASSEMBLY COMMITTEES ON
TRANSPORTATION AND COUNTY GOVERNMENT REGARDING
TRANSPLAN PROPOSAL

PUBLIC HEARING - JANUARY 26, 1987

TO THE HONORABLE COMMITTEE MEMBERS:

The Princeton Area Developers appreciate the opportunity to appear before the assembly committees on Transportation and County Government to express our concerns about certain aspects of the Transplan proposal set forth in Assembly bills 3289, 3290 and 3291.

Our group previously submitted a written statement at the hearings held by these committees on January 8, 1987. We will not repeat the material in our earlier statement but we do want to again emphasize the positive contributions that the developers within our group have made to the economy and general well-being of Central New Jersey in the last five to ten years. Collectively, our group has attracted to New Jersey a long list of high quality corporate clients. The facilities to house these operations have resulted in excess of one billion dollars in new investment in this area. These ventures have provided thousands of new jobs and contributes millions of dollars to the communities in which they are located and to the state in tax revenues.

The corporate development that has occurred in the Princeton area is the envy of our neighboring states. Governor Kean, in his annual message on January 13th, emphasized that the State of the State is good and recognized that much of the improvement in New Jersey's economy is tied directly to the investment and development that has resulted from efforts such as ours in the Princeton area and similar efforts by high quality developers in many other areas of New Jersey.

We urge your committees not to take these accomplishments for granted or presume that New Jersey can continue to obtain its fair share of economic development if overwhelming obstacles are placed in the path of responsible and reasonable development efforts.

Commissioner Gluck recognized in her testimony before these committees on January 8th that New Jersey "is now in the middle of an economic boom that seems little short of miraculous". She further acknowledged that this "economic resurgence has been enormously beneficial to our citizens, giving them opportunities for better jobs and for a brighter future for themselves and their families". The Commissioner recognized, and we as responsible developers agree, that growth does not automatically bring with it all the benefits we seek. We understand the importance of adequate transportation facilities as well as intelligent planning. We also understand the importance of adequate financing for transportation projects and support the Commissioner's request for additional gas tax revenues.

The concept of a more organized approach to the planning and production of needed facilities, including transportation facilities, is an objective that few, if any, can quarrel with. We certainly do not. The Transplan bills before this committee, however, are so broad in scope, so ambiguous in detail, and so far-reaching in delegation of power to the bureaucracies of government, that these bills in their present form have the ability to halt future development. Even development of the highest quality such as that occurring in the Princeton area, which in other programs the state is spending substantial sums of money to attract to the state of New Jersey, can be jeopardized. Transplan threatens existing investment in existing developments and makes highly uncertain the price tag that will be required in order to carry out future development. The price of this uncertainty, coupled

with what are likely to be the unreasonable demands that can be expected under this legislation, can undermine the one sector in New Jersey which has contributed the most to the economic resurgence that has occurred in the last five years.

With regard to all three bills in the Transplan package, there is a pattern of blanket delegation of vast powers which makes it virtually impossible to predict how these bills will be implemented. For example, the heart of the Highway Access Management, A-3291, is the state access management code which the Commissioner of Transportation is to adopt within one year after the law is enacted. Until this code is produced, an understanding of this law is impossible.

Similarly, the county planning bill in A-3289 cannot be evaluated before each individual county undertakes the preparation of a county master plan, and a capital improvement plan setting forth the transportation improvements that are to be financed at least in part through private contributions.

A-3290, which provides for transportation development districts is equally meaningless until counties propose to NJDOT the establishment of specific transportation development districts which, in turn, produces NJDOT review and approval followed by the adoption of ordinances for the assessment and collection of development fees.

No member of this committee can tell a single landowner in any county of this state what these bills mean in terms of an owner's ability to proceed with existing or proposed projects. Everything will be left in limbo. The rules for access to state highways, the areas where transportation development districts will be established, and the boundaries of such districts, the transportation projects to be financed and the extent to which landowners

individually or collectively are expected to contribute to the financing of such projects; none of this information is available.

With regard to each of these bills, we can be more specific in our concerns and objections.

1. State Highway Access Management Act - S-2627, A-3291.

- a. As we have already noted, the manner in which DOT would implement this act cannot be determined before the adoption of a state access code. The bill, however, is structured to permit DOT to limit or exclude entirely access to state highways and to minimize the extent to which financial compensation is payable for the denial of such access. This legislation would permit major tracts of land to be totally denied access to state highways if alternative access to the state highway system can be obtained through the local road network. Depending on the provisions finally incorporated into the state access code, the bill indicates a clear intention that under such circumstances compensation would not be payable for denial of direct access to state highways.

Given the critical nature of the state access code and the fact that it must be prepared before this legislation can be implemented, we recommend that consideration of this legislation be deferred until the department has produced a draft code. This will enable the legislature, other governmental units and the private sector to understand more fully what DOT contemplates doing under this legislative proposal.

- b. This legislation is not limited in its impact to future developments. Section 4, for example, provides that any person seeking access to a state highway must have an access permit from DOT. The permit remains

valid only until revoked or replaced. Sub-section (d) provides that a permit shall expire "when the use of the property served by the access permit changes or is expanded". How can normal commercial transactions proceed with any assurance or certainty when a state bureaucratic structure retains the right to revoke existing access to an existing developed area simply because the use of the property has changed or has been expanded?

Section 6 goes even further with regard to existing developments. It permits DOT to revoke an access permit if it determines "that reasonable alternative access is available". There are no assurances that the exercise of such vast bureaucratic power, which can have a tremendous impact on investment, will be carried out in a responsible or predictable fashion. Such a delegation of power can threaten or jeopardize property values and the transferability of developed parcels.

Section 7 has a similar thrust permitting DOT to revoke existing permits if in "conflict" with the access code where the use of the property has changed or been expanded.

The notion of denying landowners all accesses to state highways if there is physical access to local roads must be frightening to land owners and of concern to county and local officials as well. The relocation of traffic from state highways does not guarantee that the local road network will be able to carry these increased traffic loads and intersect properly with the state highway network.

At the most, DOT can only assure the public that this vast power will be handled responsibly. These assurances, however, can have little persuasion when it is understood that these decisions will not be made

by the commissioner or the highest administrative levels of the department but within the deepest level of a bureaucracy which does not even exist today and which must be created to carry out the virtually unlimited power granted to DOT.

This legislature should not decide a policy decision as important as whether major segments of our state highway system are to be converted into limited access highways by a blanket delegation of such power to DOT. Such decisions should be made with high visibility and should include legislative involvement. At the very least, the bill should include minimum standards that will insure the retention of access by developments to the state highway system except under the most extreme circumstances.

2. Municipal-County Planning Partnership Proposal - S-2626, A-3289

This legislation substantially alters the tradition role of county government with regard to land use development. County review at the present time is limited largely to the adequacy of drainage facilities and the impact on county roads. Needless to say, the existing staff of county governments are not now prepared to undertake the additional powers that this bill contemplates.

The function of the county master plan is radically changed, becoming the measuring rod for proposed developments which are defined to be of "regional significance"; although the county has little responsibility to provide most of the transportation facilities that would be incorporated within the county master plan. The legislation would force developments of regional significance to conform to the county master plan's provisions relating to transportation as well as water supply, sewage, wetlands, etc. Municipalities would be stripped of

their power to grant site plan approval unless a county planning board permits it. Counties may also be empowered to force municipalities to change their local master plan to conform with the land use element of the county plan.

Under section 3 of the bill, the master plan must include a circulation element describing a transportation system which can adequately support projected development as well as an implementation plan. Under this section, the county is not only permitted but is actively urged to develop a wish list, the cost of which could be astronomical. It mandates that the plan be adequate to provide for future development and to contain provisions for "public transportation, highway circulation, aviation services, freight movement and the special transportation needs of the handicapped, the poor, the young and the aged".

Such planning may be laudatory in concept. When a landowners ability to use his property, however, is tied to implementation of planning that may be unrealistic or unattainable, the basis for our concern is obvious.

Section 29 requires the county planning board annually to prepare a capital improvements program consistent with the master plan. It must inventory all proposed and recommended public improvements within the county regardless of governmental jurisdiction. The initial five year plan must be consistent with and incorporate any transportation improvement program which the county submits to DOT. The five year plan must include all projects to be undertaken during that period and the funding sources including private funding. This capital improvement plan, which is not mandated to be actually undertaken or

constructed, can be used as a justification for denying any landowner the right to proceed. Moreover, the program is to be used as the mechanism whereby the county can justify demanding substantial amounts from landowners in order to pay for these improvements. Ironically, if the amounts taken from developers are not used for the construction of transportation improvements, these contributions eventually go to the general treasury of the county. Such provisions hardly reassure landowners that assessments will be reasonable or that contributions once made will produce improvements.

The concept of review and approval on a county level, in and of itself, is not necessarily objectionable. The county review provided for in this legislation, however, merely adds a new element of uncertainty into the development process without in any way relieving landowners from what is already a lengthy and expensive pursuit for permits and approvals.

If the legislature wants projects of regional significance reviewed and approved on a county level, the legislation should provide that such approval carries with it the approval that ordinarily would have been required from the municipality. To insure local involvement in the approval process, the county planning board could provide for the addition of several members from the municipal planning board who would participate in the approval process. This would insure that local considerations are not neglected. The consolidation of the review and approval process in this fashion could protect both county and municipal interests without extending an already cumbersome process.

Such a consolidation, however, would not resolve the concerns expressed about obligations for an almost endless list of transportation improvements and the uncertainty as to the financial obligation to be imposed on the private sector. These concerns become more apparent when the third bill in this package is examined.

3. New Jersey Transportation Development District Act of 1986 - S-2628, A-3290

This bill would allow counties, individually or in groups, to establish transportation development districts (TDD). Upon establishment of TDD's, the county may adopt a district transportation improvement plan. This plan is to be incorporated into the county capital improvements program already commented upon. Upon the adoption of a transportation improvement plan, the county is then authorized to provide for the assessment and collection of development fees.

This bill along with the others in the package provides a mechanism for establishing a list of transportation improvements and passing all or a portion of the cost of constructing such improvements onto the private sector. We are troubled by the prospect of yet another special assessment on a small segment of the business community to fund projects which benefit the entire general public. Municipalities already assess landowners developing property for such varied projects as low income housing, sewers, municipal road improvements, parks and similar local improvements.

Developers as part of the private sector, do not necessarily oppose paying their fair share to construct necessary capital improvements. We do seek a "level playing field". We are concerned when an assessment program creates the competitive disadvantages which is

clearly inherent in this legislation. Those within districts pay and those outside do not. We are also concerned when the extent of financial involvement is as ill-defined and uncertain as it is in this legislation. The bill permits counties to charge landowners 100% of the costs of these improvements. The legislation does not guarantee any state financial support for these improvements.

Section 3 defines "development assessment liability date" to mean the date specified in the ordinance adopted by the county in Section 7 and permits such date to be immediate or "a specific date not more than ten years prior to the effective date of the ordinance". Such uncontrolled and unregulated discretion of retroactivity cannot be justified. There are no standards to guide such a decision.

The bill also leaves to discretion whether the assessment is imposed annually or on a one-time basis. The criteria in Section 8 for the assessment of the development fees are so broad as to give no meaningful guidance, no assurances to landowners and no limitations on the amount of the assessment. It is a carte blanche grant of power with no meaningful restraints.

It cannot be determined from this legislation which counties will establish TDD's. Given the attention that has already been focused on the Route 1 corridor, we presume that the area in which our group operates will be a prime candidate for the establishment of such a district. We have no notion, however, whether it will be created by Mercer County, Middlesex County or both. It is not known where the district will commence in the north or in the south or what areas on either side of Route 1 are to be included. And, we are one of the more clearly defined districts as of today. This information will

only be available when one or more counties decide to submit a proposal to DOT and only after DOT has completed review of the application received.

Assuming that a district is created, the county is empowered to produce a draft district transportation improvement plan and a draft financial program. Again, it is unknown what these plans will be. Indeed, it is doubtful that the counties themselves have a clear idea of how they would proceed and what they would include.

Whether done well or poorly, these plans will create real obligations for landowners and are likely to result in real obstacles to even the most desirable type of development within a district.

We share DOT's concern about the necessity for providing transportation improvements. We support the DOT request for additional gas tax revenue.

We find it difficult to understand how reasonable and responsible use of privately owned property in this state can proceed in the face of the obstacles that this legislation can create. Landowners are confronted with questions that no one can answer and which are not likely to be clarified for years. At the same time, this legislation will create a mechanism that will permit an over zealous, and inexperienced bureaucracy and those opposed to any development to inject into legitimate land development activities the kind of pressures, uncertainties and costs that can do serious damage to an activity which the State of New Jersey desires and requires.

We believe that there are ways to meet the legitimate transportation objectives of the state and to insure proper and fair involvement of the private sector financially and otherwise. We do not believe,

however, that these bills are the way to meet these objectives. There must be a better way and we are prepared to work cooperatively to see that such legislation is developed.

We suggested on January 8th that a study committee, with representation from state, county and municipal governments as well as the private sector be included. This should not be viewed as a delaying tactic. DOT and the counties can proceed with the development of the codes and plans which would give form and shape to the proposals set forth in Transplan. We would support appropriations to both county and municipal governments so that master plans, capital improvement programs, transportation improvement plans, financial plans and delineations of transportation development districts can be developed on a draft basis at the same time that a study commission considers how to best integrate such specific concepts into an appropriate legislative program.

The implementation of this proposal is the best way to address and resolve the concerns expressed by the Commissioner in her Transplan proposal. It will insure a more equitable approach to these problems.

POSITION BY THE NEW JERSEY STATE LEAGUE OF MUNICIPALITIES GROWTH
MANAGEMENT STUDY COMMITTEE, BEFORE A JOINT MEETING OF THE
SENATE COUNTY AND MUNICIPAL GOVERNMENT COMMITTEE AND THE
SENATE TRANSPORTATION AND COMMUNICATIONS COMMITTEE,
APRIL 6, 1987

GOOD MORNING. I AM VERY HONORED TODAY TO PRESENT THE NEW JERSEY
STATE LEAGUE OF MUNICIPALITIES' PROPOSED AMENDMENTS TO THE DEPARTMENT OF
TRANSPORTATION'S "TRANSPLAN". SINCE SEPTEMBER, A GROWTH MANAGEMENT
SUBCOMMITTEE OF LEAGUE MEMBERS HAS BEEN MEETING REGULARLY TO FRAME THE
CONCEPTS FOR THESE AMENDMENTS. OUR AMENDMENTS ARE NOT TOTALLY REFINED
AS YET. THE MORE WE STUDY THEIR IMPLICATIONS ON NEW JERSEY'S PRESENT
SYSTEM OF REGULATING LAND USE, THE MORE WEIGHTY ISSUES ARISE WHICH MUST
BE ADDRESSED. TODAY I WILL OUTLINE THE CONCEPTS BEHIND THE AMENDMENTS
AND SOME OF THE MORE COMPLEX PROBLEMS WHICH WILL NEED TO BE SOLVED BY
THE LEGISLATURE AND THE LEAGUE TOGETHER WITH D.O.T. AND COUNTY
GOVERNMENT REPRESENTATIVES.

BUT MY CENTRAL MESSAGE IS THIS:

THE LEAGUE OF MUNICIPALITIES IS NOT HERE TODAY TO DO BATTLE WITH
THE "REGIONAL PERSPECTIVE." RATHER, WE ARE HERE TO JOIN FORCES FOR THE

25X

COMMON BENEFITS OF MANAGING OUR GROWTH. NEW JERSEY'S SUBURBAN PROSPERITY HAS BEEN POSITIVE FOR GROWING MUNICIPALITIES WHICH SEEK TO BALANCE OFF THEIR PROPERTY TAXES BY ATTRACTING COMMERCIAL RATABLES. IT HAS ALSO BEEN POSITIVE FOR THE JOB MARKET AND FOR BOOSTING NEW JERSEY'S ECONOMIC HEALTH TO ITS PRESENT ROBUST STATE. BUT IT HAS BEEN NEGATIVE, TOO, BECAUSE REDEVELOPMENT IS NOT CHANNELED INTO OUR OLDER CITIES AND BURDENS OF ASTRONOMICAL INFRASTRUCTURE COSTS ARE CREATED FOR ALREADY STRAINED STATE, COUNTY AND LOCAL GOVERNMENTS. SO, WE ARE HERE TODAY NOT AS A PART OF THIS PROBLEM, BUT AS A PART OF ITS SOLUTION.

THE PROPOSED AMENDMENTS WHICH I WILL PRESENT REFER ONLY TO THE COUNTY-MUNICIPAL PLANNING BILL IN THE TRANSPAN PACKAGE, THAT IS S-2626. THE LEAGUE HAS NOT YET HAD THE OPPORTUNITY TO THOROUGHLY REVIEW THE TRANSPORTATION DEVELOPMENT DISTRICT ACT - S-2627, OR THE ACCESS STANDARDS LEGISLATION, S-2628. ALTHOUGH WE SEE THOSE SECTIONS AS NECESSARY AND GIANT STEPS FORWARD IN THE MEANINGFUL MANAGEMENT OF OUR STATE'S ROAD SYSTEM, WE WOULD REQUEST AN OPPORTUNITY TO RESERVE FINAL

26X

JUDGMENT UNTIL THEY CAN BE REVIEWED IN DETAIL.

THE CENTRAL CONCEPT WHICH HAS BEEN GUIDING THE WORK OF THE LEAGUE'S GROWTH MANAGEMENT STUDY COMMITTEE IS STRAIGHTFORWARD. IT IS THAT MUNICIPALITIES WILL STILL PLAN FOR AND REVIEW THEIR OWN DEVELOPMENT, BUT THAT THE INFRASTRUCTURE CAPACITY FOR A GIVEN MUNICIPALITY, AS WELL AS THOSE THAT SURROUND IT MUST BE ADEQUATE TO ACCOMMODATE THAT DEVELOPMENT. S-2626, NOT COINCIDENTALLY IS BASED UPON THIS SAME CONCEPT. THIS IS THE RESULT OF LEAGUE REPRESENTATIVES MEETING WITH D.O.T. OFFICIALS IN LATE SEPTEMBER BEFORE THE BILLS WERE INTRODUCED. AT THIS MEETING WE ALL CAME TO THE UNDERSTANDING THAT DOT'S LEGISLATIVE INTENT WAS NOT TO DIMINISH THE POWERS OF LOCAL GOVERNMENT, BUT RATHER TO PROVIDE A CO-OPERATIVE FRAMEWORK FOR DECISIONS MADE ON MATTERS OF MUTUAL CONCERN.

THE LEAGUE AGREES THAT NEW JERSEY'S COUNTIES MUST BE MANDATED TO DEVELOP MASTER PLANS WHICH ARE GENERAL IN NATURE AND WHICH REFLECT BROAD PATTERNS OF LAND USE. BUT THOSE COUNTY MASTER PLANS SHOULD RESULT FROM

DUE CONSIDERATION OF EACH MUNICIPALITY'S MASTER PLAN, AND THE LOCAL POLICIES WHICH MUNICIPAL PLANS REFLECT. PRESENTLY THIS BILL DOES STRENGTHEN COUNTY PLANNING POWERS, BUT IT DOES SO WITHOUT STRENGTHENING THE TIES BETWEEN EXISTING MUNICIPAL PLANS AND THE ENVISIONED COUNTY MASTER PLAN. THIS IS THE BASIC DIFFICULTY WE HAVE WITH S-2626. THE BILL DOES NOT SET UP A SYSTEM FOR COUNTIES TO REACH OUT TO MUNICIPALITIES TO USE THEIR MASTER PLANS AS THE BASE FOR COUNTY PLANS. SECTION 1.K.5 WHICH FORBIDS THE COUNTY SPENDING CAPITAL FUNDS NOT ACCOUNTED FOR IN ITS OWN PLAN, IS ONE EXAMPLE OF THIS PROBLEM. ANOTHER IS SECTION 8 WHERE DEVELOPMENTS OF REGIONAL SIGNIFICANCE MUST BE CERTIFIED BEFORE ANY MUNICIPAL REVIEWS BEGIN BUT CERTIFIED ONLY ACCORDING TO COUNTY STANDARDS. THIS LEGISLATION, IN EFFECT, STILL ALLOWS US - TOWNS AND COUNTIES - TO MARCH TO THE PLANNING BEATS OF DIFFERENT DRUMMERS. TO REMEDY THIS, THE LEAGUE PROPOSES USING THE INFRASTRUCTURE ELEMENTS OF WATER SUPPLY, SEWERAGE, DRAINAGE AND TRANSPORTATION SYSTEMS TO CO-ORDINATE ALL OUR MARCHING TO THE SAME PLANNING BEAT. THE FOLLOWING FOUR AMENDMENTS RESULT FROM THIS NEED TO

HAVE COUNTY AND MUNICIPAL MASTER PLANS WORK IN CONCERT TO REGULATE INFRASTRUCTURE AND CONTROL DEVELOPMENT.

1. THE FIRST AMENDMENT WE PROPOSE SETS UP AN 18 MONTH LONG PROCESS FOR ACHIEVING COMPLETE CONSISTENCY BETWEEN MUNICIPALITIES AND COUNTIES WHICH IS LIMITED TO INFRASTRUCTURE PLANNING AND REGULATION. I WILL EXPAND ON THIS THEME OF THE CONSISTENCY REQUIREMENT APPLYING ONLY TO THE INFRASTRUCTURE ELEMENTS OF MASTER PLANS IN THE NEXT AMENDMENT. HERE WE WOULD LIKE TO PRESENT A CLEARLY DEFINED 18 MONTH LONG CROSS-ACCEPTANCE PROCEDURE FOR BOTH MUNICIPALITIES AND COUNTIES TO FOLLOW. THROUGH THIS PROCEDURE WE HOPE THAT COMPATIBILITY ON ISSUES INVOLVING BROAD PATTERNS OF LAND USE BETWEEN MUNICIPALITIES AND COUNTIES WILL ALSO EMERGE.

OUR RATIONALE FOR ESTABLISHING AN 18 MONTH LONG PROCEDURE IS THIS. WE FEEL IT IS IMPERATIVE THAT MUNICIPAL MASTER PLANS SERVE AS THE BASIC BUILDING BLOCKS FOR THE COUNTY PLAN. THEN, THROUGH THE CROSS ACCEPTANCE PROCESS, COUNTY PLANS SHOULD BECOME AN ACCURATE REPRESENTATION OF FUTURE

DEVELOPMENT PATTERNS ON A REGIONAL SCALE. AS S-2626 IS NOW WRITTEN, THE COUNTY IS REQUIRED ONLY TO LOOK AT MUNICIPAL MASTER PLANS AND THEN TO HOLD ONLY ONE PUBLIC HEARING ON THEIR OWN PLAN. OUR PROPOSAL ENSURES THAT COUNTIES AND MUNICIPALITIES BOTH FOLLOW A FORMALIZED PROCEDURE WHICH GIVES EACH AMPLE OPPORTUNITY TO ADDRESS MUTUAL CONCERNS ON REGIONAL DEVELOPMENT PATTERNS.

2. OUR SECOND AMENDMENT PROPOSES THE CONCEPT OF INFRASTRUCTURE DEVELOPMENT PLANS, WHICH I WILL REFER TO AS I.D.P.'S. THESE I.D.P.'S WILL SERVE AS THE FRAMEWORK TO COORDINATE CONSISTENCY IN THE AREAS OF WATER SUPPLY, SEWERAGE, DRAINAGE AND TRANSPORTATION SYSTEMS.

CONSISTENCY BETWEEN MUNICIPAL AND COUNTY MASTER PLANS IN THESE FOUR AREAS WILL RESULT IN MORE CONTROLLED, COORDINATED PATTERNS OF DEVELOPMENT. AS PART OF THE COUNTY MASTER PLAN AND MUNICIPAL MASTER PLANS, AN I.D.P. IN EACH OF THE FOUR FUNCTIONAL AREAS WOULD BE REQUIRED. THESE I.D.P.'S WOULD EVOLVE FROM LAND USE PLANS JUST AS INFRASTRUCTURE

REQUIREMENTS EVOLVE FROM THE DIFFERENT USES OF LAND FOR DEVELOPMENT, AGRICULTURE OR CONSERVATION. THE MUNICIPAL AND COUNTY I.D.P.'S WOULD BE THE AREA IN WHICH A CONSISTENCY REQUIREMENT WOULD BE IMPOSED. WE SEE THIS CONSISTENCY REQUIREMENT AS NECESSARY IN ORDER TO ENSURE THAT COUNTY AND MUNICIPAL INFRASTRUCTURE PROJECTS ARE AIMED AT THE SAME NEEDS FOR BETTER USE OF TAXPAYER DOLLARS. WE ALSO SEE CONSISTENCY OF PLANS AS NECESSARY TO ENSURE THAT ONE COMMUNITY'S DEVELOPMENT DOES NOT OVERBURDEN ANOTHER COMMUNITY'S INFRASTRUCTURE.

WORK ON COORDINATING THE INFRASTRUCTURE REQUIREMENTS OF WATER, SEWERAGE AND DRAINAGE SYSTEMS IS ALREADY PROCEEDING. WITNESS THE EXAMPLE OF 208 PLANNING BY D.E.P., COUNTIES AND TOWNS FOR WASTEWATER TREATMENT IN NEW JERSEY. THE REAL CHALLENGE WITH DEVELOPING THE I.D.P.'S WILL BE WITH THE TRANSPORTATION ELEMENT. THIS MAY EVEN INVOLVE SETTING CAPACITY LIMITS FOR ROADWAYS. IDENTIFYING ROADWAY IMPROVEMENTS AND TRANSPORTATION MANAGEMENT STRATEGIES NEEDED FOR REGIONAL DEVELOPMENT, NOT ONLY IN THE HOST COMMUNITY BUT IN NEIGHBORING

MUNICIPALITIES AS WELL, WILL ALSO BE A PART OF THE I.D.P.. OFF TRACT IMPROVEMENTS UNDER THIS CONCEPT TAKE ON A WHOLE NEW MEANING WHICH CAN HAVE FAR REACHING IMPLICATIONS ON THE SHARED-COST RATIOS OF PUBLIC-PRIVATE FUNDING SCHEMES. NEEDLESS TO SAY, THE COORDINATION OF OUR TRANSPORTATION SYSTEM'S CAPACITY WILL NOT BE FOR THE FAINT OF HEART.

3. THE THIRD PROPOSED AMENDMENT IS THE CREATION OF A LAND USE ARBITRATION BOARD OR L.U.A.B. LAND USE COURTS OR BOARDS HAVE BEEN SUCCESSFUL IN OTHER STATES IN HELPING TO RESOLVE CONFLICTS REGARDING LAND USE. WE THINK IT WOULD BE HELPFUL IN NEW JERSEY TO HAVE A FORUM FOR RESOLVING THOSE DISPUTES WHICH INCREASINGLY OCCUR BETWEEN TOWNS AND COUNTIES IN OUR STATE OVER LAND USE MATTERS. SUCH DISPUTES HAVE BECOME HIGHLY PUBLICIZED, SOMETIMES ACRIMONIOUS BATTLES AMONG MUNICIPALITIES AND HIGHER GOVERNMENTAL LEVELS WHICH LEAVE THE PUBLIC WONDERING WHY THEIR OFFICIALS CAN'T MORE CIVILLY RESOLVE THEIR CONFLICTS.

A L.U.A.B. WOULD ALSO BE THE SETTING TO FINALLY RESOLVE THE MORE

SERIOUS STUMBLING BLOCKS TO ACHIEVING CONSISTENCY ON THE I.D.P.'S WHICH IS SOMETHING WE ANTICIPATE MAY OCCUR.

THE LEAGUE REALIZES THE NEED FOR COUNTY PLANNING BOARDS TO HAVE THE POWER TO ENFORCE CONSISTENCY REQUIREMENTS IN THE I.D.P.'S AMONG TOWNS SO THAT THE COUNTY PLAN HAS ACTUAL VALIDITY AND EFFECT. BUT THERE CERTAINLY IS ONLY SLIM EVIDENCE TO DATE TO INDICATE THAT COUNTIES CAN DO ANY BETTER THAN MUNICIPALITIES IN PLANNING FOR AN EFFICIENT AND EQUITABLE DEVELOPMENT PROCESS. FOR THIS REASON, NEW JERSEY'S MUNICIPALITIES WOULD BE SOMEWHAT UNCOMFORTABLE IN HAVING A COUNTY PLANNING BOARD BE THE LAST WORD ON THEIR I.D.P.'S. WE HAVE BUILT INTO THE FIRST OF OUR AMENDMENTS A THREE MONTH INTERVAL FOR FORMAL MEDIATION TO RESOLVE DISPUTES. ONLY ISSUES WHICH THEN REMAIN WOULD GO TO THIS BOARD FOR BINDING ARBITRATION.

WE SUGGEST THERE BE ONE, CENTRAL, STATE L.U.A.B. WITH A TEAM OF ARBITRATORS, OR THREE TO FIVE L.U.A.B.'S, EACH WITH A REGIONAL

JURISDICTION IN NEW JERSEY. THE L.U.A.B. SHOULD BE COMPRISED OF PROFESSIONAL PLANNERS, ENGINEERS, REPRESENTATIVES OF D.E.P. AND D.O.T. AMONG OTHERS. THE L.U.A.B. SHOULD UTILIZE ONE SET OF STATEWIDE INFRASTRUCTURE CAPACITY STANDARDS THEREBY RENDERING CONSISTENT DECISIONS. AND THE L.U.A.B. COULD SERVE TO ARBITRATE CONFLICTING INFRASTRUCTURE ISSUES BETWEEN COUNTIES AS WELL AS BETWEEN TOWNS. THIS IDEA IS STILL IN A VERY FORMATIVE STAGE. WE EXPECT THE CONCEPT TO POSSIBLY CHANGE SHAPE AND EVOLVE IN DEFINITION AS WE STUDY IT MORE AND AS THE LEGISLATIVE PROCESS INEVITABLY REFINES IT. OBVIOUSLY THE CREATION OF LAND USE ARBITRATION BOARDS IN NEW JERSEY WILL INVOLVE EXTENSIVE ENABLING LEGISLATION, AND A CLEAR, STATUTORY DEFINITION OF THEIR ROLE IN RELATION TO OUR COURT SYSTEM. BUT WE THINK IT IS A CONCEPT WHICH SHOULD NOW BECOME REALITY.

4. OUR FOURTH AND LAST MAJOR AMENDMENT DEALS WITH THE PROCEDURE OF PRELIMINARY REVIEW BY COUNTY PLANNING BOARDS OF "PROJECTS OF REGIONAL SIGNIFICANCE". WE FEEL THAT IF MUNICIPALITIES' I.D.P.'S ARE MANDATED,

AND IN FACT DO BECOME CONSISTENT WITH A COUNTY'S I.D.P., THEN COUNTY PRELIMINARY REVIEW OF SUCH PROJECTS BECOMES UNNECESSARY. MUNICIPALITIES WILL ALWAYS HAVE THE RIGHT TO REJECT APPLICATIONS, SO THEY SHOULD RETAIN THE RIGHT TO DEAL DIRECTLY, FROM THE START WITH THE DEVELOPER. THIS WOULD ELIMINATE TIME, MONEY AND CONFUSION WHICH WOULD NEEDLESSLY RESULT FROM THE PRESENT DOT PROPOSAL. CONSISTENCY EXEMPTIONS ARE NOW PRACTICED BY BOTH THE PINELANDS AND D & R CANAL COMMISSIONS, SO THE IDEA IS NOT A NEW ONE. ALL DEVELOPMENT PLANS WOULD CONTINUE TO CIRCULATE THROUGH COUNTY PLANNING DEPARTMENTS TO INSURE CONSISTENCY IS MAINTAINED AND TO UPDATE CAPACITY FIGURES IN THE I.D.P.'S. IF A CERTAIN DEVELOPMENT BREAKS CONSISTENCY THEN THE COUNTY COULD INTERRUPT A MUNICIPAL REVIEW - OR STOP THE M.L.U.L. CLOCK AS IT IS REFERRED TO, FOR A 30 DAY PERIOD UNTIL THE ISSUE IS RESOLVED.

IT SHOULD BE REMEMBERED THAT THE PROPOSED REQUIREMENT IN THE "TRANSPLAN" BILL FOR A 45 DAY REVIEW PERIOD BY COUNTY PLANNING BOARDS OF ALL THE "PROJECTS OF REGIONAL SIGNIFICANCE" IN THAT COUNTY, WILL CREATE

A TREMENDOUS BURDEN ON COUNTY PLANNING STAFFS ESPECIALLY IN BERGEN COUNTY WITH 70 MUNICIPALITIES. S-2626 AS IT IS NOW WRITTEN RECOGNIZES THAT PROBLEM BY EMPOWERING STAFF TO GRANT PROJECT CERTIFICATIONS IN ORDER TO SPEED THE PROCESS. THE LEAGUE IS QUITE UNCOMFORTABLE WITH THIS SITUATION WHICH IN EFFECT, LETS NON-ELECTED AND UNACCOUNTABLE STAFF PEOPLE DECIDE THE FATE OF A DEVELOPMENT WHICH COULD HAVE MAJOR ECONOMIC IMPACTS ON COMMUNITIES.

THESE FOUR PROPOSED AMENDMENTS ARE, WE REALIZE, MAJOR ADDITIONS TO S-2626. IT IS FOR THE LEGISLATURE TO DECIDE IF THESE AMENDMENTS OUGHT TO BE DRAFTED AS SEPARATE BILLS OR BECOME PART OF THE TRANSPLAN. THE LEAGUE HAS INVESTED MUCH EFFORT IN THESE FOUR PROPOSALS, AND WE WANT TO SEE THEM ENACTED AT THE SAME TIME AS TRANSPLAN. WITHOUT THEM, OUR OBJECTIONS TO S-2626 WOULD BE SIZEABLE.

SEVERAL COMPLEX QUESTIONS HAVE ARISEN IN OUR CONSIDERATION OF S-2626 WHICH CANNOT BE SOLVED BY THE LEAGUE ALONE. SOME OF THESE ARE:

WILL ALL OF NEW JERSEY'S 21 COUNTIES WANT TO REGULATE THE
I.D.P.'S, ADMINISTER ACCESS STANDARDS AND SET UP AND CONTROL
TRANSPORTATION DEVELOPMENT DISTRICTS?

PLANNING COSTS MONEY. WILL THE COUNTIES BE WILLING TO PAY FOR
THIS AFTER THEIR 2 MILLION DOLLARS OF STATE FUNDS IS SPENT?

COULD THE LEGISLATURE, IN AN ULTIMATE ACT OF GOOD WILL, GRANT
FUNDS TO MUNICIPALITIES TO DEVELOP THEIR I.D.P.'S AS WELL?

WHAT WILL BE THE PENALTY FOR COUNTIES AND TOWNS WHICH DO NOT
PROCEED PURSUANT TO THE LEGISLATION - ASSUMING IT IS APPROVED?

WHO WILL ESTABLISH STATEWIDE CAPACITY STANDARDS FOR THE
FUNCTIONAL AREAS OF INFRASTRUCTURE?

SHOULD COUNTY PLANNING BOARDS BE RESTRUCTURED IN SOME FASHION TO ENSURE A BROAD REPRESENTATION AND DIRECT ACCOUNTABILITY TO THE MUNICIPALITIES AND THE PUBLIC?

CONSISTENCY OF THE I.D.P.'S MAY BE ACHIEVED. BUT WHO PAYS FOR A LARGER INFRASTRUCTURE ELEMENT WHICH SERVES THE REGIONAL INTEREST?

THERE IS A VERY FINE LINE TO WALK BETWEEN BURDENING NEW DEVELOPMENT WITH ADDED INFRASTRUCTURE COSTS, AND MAINTAINING HEALTHY ECONOMIC GROWTH. WE REALIZE THAT THESE PROPOSALS, COMBINED WITH THE EXTENSIVE LAND USE MANAGEMENT REGULATIONS ALREADY PRACTICED BY D.E.P. WILL FUNNEL GROWTH INTO AREAS WITH EXISTING INFRASTRUCTURE. WILL THAT RESULT IN A STATE ECONOMY WHICH STARTS TO LOOSE STEAM AND BEGINS TO SLIDE BACKWARD?

IN SUMMARY, WE FEEL THESE PROPOSALS OF THE LEAGUE'S COMMITTEE ON GROWTH MANAGEMENT ARE PROVIDING THE MAJOR FRAMEWORK FOR ACTUAL

IMPLEMENTATION OF THE STATE PLANNING ACT. WE DEFINE IN DETAIL A SPECIFIC PROCESS FOR CROSS-ACCEPTANCE, SOMETHING THE STATE PLANNING COMMISSION IS WORKING ON NOW. WE ADDRESS THE ISSUE OF CONFLICT RESOLUTION BY THE CREATION OF A MEDIATION PROCESS AND A LAND USE ARBITRATION BOARD. WE RECOMMEND A CONSISTENCY REQUIREMENT ON THE INFRASTRUCTURE DEVELOPMENT PLANS. THIS GIVES TEETH TO REGIONAL PLANNING, SOMETHING WHICH MANY HAVE LAMENTED AS MISSING FROM THE STATE PLANNING ACT. AND THE REQUIREMENT WITHIN THE I.D.P.'S THAT ONE TOWN'S DEVELOPMENT NOT OVERBURDEN ANOTHER'S INFRASTRUCTURE WITHOUT PAYING THE COST, SHOULD SERVE TO CHANNEL DEVELOPMENT INTO AREAS OF EXISTING INFRASTRUCTURE. AS WE UNDERSTAND IT, THIS IS A MAJOR GOAL OF THE REDEVELOPMENT ASPECT OF THE STATE PLANNING ACT.

WE HAVE PRESENTED THESE AMENDMENTS TO THE TRANSPLAN TODAY BECAUSE WHILE WE WISH TO PRESERVE EACH MUNICIPALITIES' RIGHT TO PLAN AND CONTROL ITS OWN FUTURE, WE ALSO REALIZE THAT THE EFFECTS OF MODERN DEVELOPMENT MAKE EACH ONE OF US A PART OF ONE COMPLEX INTERRELATED WHOLE. WE HAVE

TRIED TO DEVISE A NEW SYSTEM FOR LAND USE ADMINISTRATION WHICH MEETS BOTH THESE CONCERNS. WITHOUT THAT DUAL ORIENTATION, THE DEBATES, PRESS BATTLES AND POLARIZED POSITIONS OVER NEW JERSEY'S GROWTH WILL CONTINUE. ULTIMATELY, THAT MEANS WE WILL BECOME ONE LARGE SUBURB WITH EVERYONE DROWNING IN TRAFFIC. WE FEEL THESE AMENDMENTS REPRESENT A COMPROMISE BETWEEN THOSE WHO WOULD HAVE COUNTIES TOTALLY CONTROL LOCAL LAND USE, AND THOSE WHO WOULD HAVE TOWNS GROW WITH NO REGARD FOR THEIR NEIGHBOR. WE SEE THEM AS A NEW BEGINNING FOR GROWTH MANAGEMENT IN NEW JERSEY. WE HOPE YOU DO TOO.

IN CONCLUSION, I THINK THAT YOU WOULD BE INTERESTED IN THE COMPOSITION OF THE LEAGUE'S GROWTH MANAGEMENT COMMITTEE WHICH PRODUCED THESE RECOMMENDATIONS. INCLUDED ON THE COMMITTEE ARE THREE MEMBERS OF THE LEAGUE EXECUTIVE BOARD, AND ELEVEN MEMBERS OF THE LEAGUE'S LEGISLATIVE COMMITTEE.

THE COMMITTEE IS COMPRISED OF BOTH ELECTED AND APPOINTED OFFICIALS FROM VARIOUS PARTS OF THE STATE, SEVERAL OF WHOM SERVE, OR HAVE SERVED, ON MUNICIPAL PLANNING BOARDS. TWO MEMBERS, COINCIDENTALLY ALSO CURRENTLY SERVE ON COUNTY FREEHOLDER BOARDS AND ONE IS A FORMER COUNTY PLANNING BOARD MEMBER.

THE MEMBERS ARE:

KELLOGG G. BIRDSEYE

Chairman, Economic Development Committee, Lawrence Township (Mercer);
Chairman, Legislative Committee, N.J. Federation of Planning Officials;
Chairman, Land Use, Environment and Community Development Sub-committee,
League Legislative Committee.

PETER BUCHSBAUM, ESQ.

Special Counsel, Lawrence Township (Mercer); Municipal Attorney, High
Bridge; Member, League Legislative Committee.

B. BUDD CHAVOOSIAN

Extension Specialist in Land Use, Cooperative Extension Service, Cook College; Member, Legislative Committee, N.J. Chapter, American Planning Association.

MARTIN T. DURKIN

Municipal Attorney, Ridge Field Park; Past President, N.J. Institute of Municipal Attorneys.

STEPHEN ELLIOTT

Mayor, Ewing Township; Member, League Legislative Committee.

GRETEL GATTERDAM

Deputy Mayor, Lawrence Township (Mercer); Executive Board Member, New Jersey State League of Municipalities; Member, League Legislative Committee.

LESLIE HOLZMANN

Township Engineer, Branchburg; Member, League Legislative Committee;
Representing N.J. Society of Municipal Engineers.

VIRGINIA D. HOOK

Mayor, Delaware Township; 3rd Vice-President, N.J. State League of
Municipalities; Member, League Legislative Committee.

CHARLES J. O'DOWD, JR.

Mayor, Bergenfield; Chairman, Bergen County Board of Freeholders.

MICHAEL A. PANE, ESQ.

Member, League Legislative Committee; Member, Board of Trustees, N.J.
Institute of Municipal Attorneys; Planning Board Attorney, Millstone.

PETER H. RAYNER

Township Administrator, Montgomery; Member, League Legislative
Committee.

JACK C. SHEPPARD

Mayor, Wenonah.

JUDITH P. SCHLEICHER

First Vice-President, N.J. Federation of Planning Officials; Planning
Board Chairman, Denville.

FRED G. STICKEL, III, ESQ.

League General Counsel; Past President, N.J. Institute of Municipal
Attorneys; Co-chairman, League Legislative Committee.

WILLIAM B. WAHL

Committee Member, Bernards Township; League Second Vice-President;
Member, Somerset County Board of Chosen Freeholders; Member, League
Legislative Committee.

THANK YOU.

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.

46x

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.

Fourteenth month: The county submits its final IDP to all municipalities who have 30 days for written comment.

Fifteenth to Eighteenth months: County plans may be adopted during this time by municipalities and counties which have reached consistency on the four elements. Conflicts which have been unresolved by mediation would be resolved during this time by the Land Use Board of Appeals.

TESTIMONY
OF
THE NEW JERSEY BUILDERS ASSOCIATION
ON
TRANSPLAN
(S-2626, A-3289, S-2628, A-3290, S-2627, A-3291)
PRESENTED
TO THE SENATE COMMITTEES ON TRANSPORTATION AND COMMUNICATIONS
AND
COUNTY AND MUNICIPAL GOVERNMENT
JOINT HEARING
ON
APRIL 6, 1987

49x

Good morning, my name is Anthony Pizzutillo, I am Director of Governmental Affairs for the New Jersey Builders Association. The NJBA appreciates the opportunity to appear before the Senate Committees on Transportation and Communications and County and Municipal Government to express our views on the Transplan proposal set forth in Assembly bills A-3289, A-3290 and A-3291.

Governor Kean stated in his 1987 annual message that, "New Jersey today is in the business of creating opportunity. We are a paradigm for what government can do to encourage economic growth." I agree with the the Governor that government can encourage growth, but we all recognize that it is the private sector that produces it. The development community is proud of our contributions to New Jersey's recent robust economy. The positive contributions that the development industry has made to the economy and general well being of New Jersey in the last 5 to 10 years are enormous. The benefit of this economic surge has resulted in low unemployment and the creation of a record number of new jobs. A healthy building industry has provided thousands of jobs and contributed millions of dollars to localities and to the state in the form of tax revenues.

We urge your committee not to take these accomplishments for granted or presume that New Jersey can continue its economic expansion if overwhelming government obstacles are placed in the path of responsible and reasonable development efforts. The Governor is correct when he notes that government can encourage economic growth; he would be equally correct were he to assert that it can discourage it.

The NJBA understands the necessity for adequate transportation facilities. We also understand the importance of adequate financing for transportation projects. That is why we have been in the forefront of those supporting for the Commissioner's request for increases in the motor fuels tax.

Most people will agree that our state's transportation network needs significant enhancement and expansion. Further, I think most will agree that the process should entail:

1. A thorough, statewide assessment of the adequacy of our current roadways (state, county and municipal);
2. Projections of where growth will occur in employment and in population, and an analysis of the commutation patterns that will result;
3. Projections of our future transportation needs (including mass transit), with phasing and cost schedules estimating the timing and costs of addressing those needs.

With such a plan in place, both sectors -- private and public -- and all levels of government will be in a position to respond in a concerted, coordinated effort. Financing could be planned and

production plans arranged in ways that will support timely response to the public's needs.

Obviously, an analysis such as I have outlined will take time. It is our view, therefore, that the motor fuels tax increase should be considered immediately to finance our pressing needs.

Over the next few months, some of the critical data for a thorough examination will become available when the State Planning Commission announces its draft plan in July of this year. It is certainly premature to put forward a proposal as sweeping as Transplan without the benefit of the Commission's work.

The Transplan proposal does not address the foregoing, but instead:

- . introduces new layers of review;
- . imposes added tax burdens on selected segments of the population and workforce; and
- . grants sweeping discretionary authority to the DOT without previously adequate legislative guidance on oversight.

It is not clear, however, if this bureaucratic superstructure were put in place, the transportation network of this state would be enhanced or expanded! The fundamental failure of Transplan is that it is a system, not a solution. It is an example of how government can discourage economic growth.

Let me turn to the specific bills in the package.

(1) Municipal-County Planning Partnership Proposals - S2626,A-3289

This legislation proposes a substantial change in the role of county government with regard to land use development. Currently, county planning board review is limited largely to the adequacy of drainage facility and the impact of development on county roads. In New Jersey, with our tradition of home rule, the municipalities are the lead level of government for most land use and planning devices.

Needless to say, this legislation would significantly shift the responsibility of land use decisions to the county. Most existing county planning board staffs are not prepared to undertake the additional powers that this bill contemplates. The legislation would require projects with "regional significance" to conform to county master plan provisions relating to transportation as well as water supply, sewage, wetlands, recreation and conservation. Towns would be stripped of their power to grant site plan approval unless a county planning board permits it. Counties would also be empowered to force municipalities to change their local master plan to conform with the land use element of the county plan.

Why, is a proposal supposedly addressing transportation issues, such sweeping shifts of authority? Is this the optimum scheme; is it one that all other agencies will embrace?

Section 7 of the bill, expands the concept of review and approval on the county level. The county review provision in this legislation

merely adds a new element of uncertainty, new sources of delay and increased costs without in any way relieving developers from what is already a lengthy and expensive process for permit and approval. The existing approval process in many areas of New Jersey often extends to two or more years. The delays and uncertainties it involves add to the costs of available places to live and work in this state. These costs are an invisible tax imposed on our citizens and no where in Transplan can you find benefits that would justify its costs.

Section 29 of this legislation requires the county planning boards annually to prepare a capital improvement program consistent with the master plan. The program must inventory all proposed and recommended public improvement within the county, regardless of governmental jurisdiction. The initial five year plan must be consistent with and incorporate any transportation improvement programs which the county submits to the DOT. The five year plan must include all projects to be undertaken during that period and the funding sources, including private funding. This capital improvement plan, which is not mandated to be actually undertaken or constructed, can be used as a justification for prohibiting projects that will respond to market demands and social needs without regard to the implications of such decisions.

Moreover, the program can be used as a mechanism whereby the county can justify substantial amounts of funding from developers in order to pay for improvements. Ironically, the fees taken from developers that are not used for the construction of transportation improvements, can be used for the payment of debt incurred under "any debt instrument which the county may be authorized by law to issue." Such provision hardly reassure developers that assessments will be reasonable or that contributions once made will produce improvements.

(2) New Jersey Transportation Development District Act of 1986,
S-2628,A-3290

This bill would allow counties, individually or in groups, to establish transportation development districts (TDD). Upon establishment of TDD's, the county may adopt a district transportation improvement plan. This plan is to be incorporated into the county improvements program. Upon the adoption of a transportation improvement plan, the county is then authorized to provide for the assessment in collection of development fees.

We agree that builders should pay this fair share of the costs associated with needed capital improvements when such improvements are directly related to the impacts of development, we recognize our responsibility to pay our way. This is set forth in the Municipal Land Use Law (Chapter C.40:55D-42) which stipulates that a builder is required to pay his pro rate share of the cost of providing reasonable and necessary street improvements and water, sewerage and drainage facilities, and easements therefore, located outside the property limits of the subdivision in order as a condition for approval of the subdivision for a site plan. The current law is equitable.

Without spending time on its details, I call your attention to Section 3D's definition of a "development assessment liability date". Can we take seriously a proposal that would impose fees retroactively? Can any of us honestly answer how this is to be assessed and collected. Can anyone believe that the concept will stand judicial scrutiny? And since this concept of fees is at the heart of Transplan, how can the rest of the package be given credibility when it stands on such objectionable premises?

This legislation will create a mechanism that will permit an overzealous, and inexperienced bureaucracy and those opposed to development to inject into legitimate land development activities the kind of pressures, uncertainties and costs that can do serious damage to economic development in New Jersey.

The implementation of developers fees and the assessment of fees on existing development will result in additional cost that can only be passed on to home buyers, tenants and corporate owners looking to expand and relocate in New Jersey. This will discourage the development in New Jersey and will result in the business community migrating to other states with lower occupancy expenses.

The NJBA believes that there are alternate approaches that can meet the legitimate transportation objectives of the state and to ensure proper and fair involvement of the private sector financially and otherwise. We believe an equitable solution would be to continue to dedicate the special fuel taxes since these are directly related to use and more equitably distribute the burdens that we must bear. It is through the dedication of this tax that additional gas tax revenue can be used to meet the future transportation improvement projects of this state.

(3) State Highway Access Management Act, S-2627, A3291.

This bill is structured to permit DOT to limit or exclude entirely access to state highways and to minimize the extent to which financial compensation is payable for the denial of such access. This legislation would permit major projects to be denied access to state highways if alternative access can be attained through the local road network.

Given the critical nature of the state access code and the fact that it must be prepared before this legislation can be implemented, we recommend that consideration of this legislation be deferred until the DOT has produced a draft code. This will enable the legislature, other governmental bodies and the private sector to understand more fully what the DOT contemplates. Then, rather than blindly deferring all authority to an administrative agency, the legislature could enact a law that provides the agency with appropriate policy direction.

Similar to the creation of other codes, it is important to establish an advisory council consisting of state, county, local and private sector representatives who would have input in drafting the proposed limited access highway code. This will encourage the development of a

reasoned, balanced code -- rather than one that is rigid and bureaucratic.

I wish to conclude on a positive note. While Transplan is conceptually flawed, the proposal has stimulate a long-needed debate, As I noted at the outset, the NJBA has been an advocate of longer term solutions to the infrastructure and financing needs of the state. If we produce the type of plan I outlined earlier, we will be able to rally the citizens of this state behind our efforts to prepare for the twenty-first century.

Thank you for this opportunity to speak before you today.

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April 6, 1987

S T A T E M E N T

To: Senate Transportation and Communications Committee and Senate County and Municipal Government Committee

Re: TRANSPLAN bills: S-2626, The County-Municipal Planning Partnership Amendments; S-2628, The Transportation Development District Act; and S-2627, The State Highway Access Management Act.

By: Samuel M. Hamill, Jr., Executive Director, MSM

MSM - The Middlesex Somerset Mercer Regional Council - is a civic planning and research organization. Our geography is the central New Jersey region between the Raritan and Delaware rivers. This area has come to be known as the Route One Corridor. MSM is supported by well over one hundred corporations as well as by civic-minded individuals who have a long-term stake in the future well-being of the region. We commend Chairman Rand and the members of this Committee for scheduling early hearings on this vital package of legislation. We have supported TRANSPLAN strongly before this and we continue to do so.

Why do we need TRANSPLAN? Transportation corridors are a public resource of immense value to New Jersey. Transportation corridors are the areas where New Jersey's economic growth will occur for the remaining years of this century.

Unfortunately, transportation corridors are also areas where the deficiencies of our governmental means of planning for and accommodating growth are most severely stressed. Much of the stress is related to the long-standing division of responsibility between local and state government: local government decides about land use; then state government is expected to pick up the subsequent cost of whatever public works are made necessary by these local government decisions.

With the concentration of new office development into suburban areas and the consequent automobile congestion crisis, this traditional system of governmental decision-making has proven unworkable. Here are some of the specific problems we see in our region:

1. Governmental Funding Is Inadequate

In order to maintain present levels of transportation service through the Year 2005 for Route 1 and its tributary local roads, \$750 million (1985 dollars) worth of improvements will be required. These estimates, made by the NJDOT, relate narrowly to the Route 1 Corridor. They do not begin to account for other required improvements in the central New Jersey region, particularly for local roads not directly linked to Route 1.

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Without these added improvements to our transportation system, the build-up in traffic will seriously jeopardize the quality of life in central New Jersey. It will also jeopardize its attractiveness as one of the state's leading locations for future growth. Funding of transportation improvements entailed by land development is a critical challenge for this region and the state.

2. Indiscriminate Access Impairs Highway Performance

A second problem is the proliferation of curb cuts and traffic signals on state highways and other regional arterials. Curb cuts and traffic signals erode the traffic-carrying ability of our highways. They are a safety hazard. Unrestricted curb cuts facilitate the strip commercial development that blights New Jersey's roadside environment.

The need for coordinating land development and transportation service is most acute in the areas along high-volume highways. We need more effective means whereby local and state government can cooperatively plan for and control these areas, which are of such critical value to the future of our state.

The access control problem also raises the issue of fairness. At present, the Commissioner of Transportation is obligated to regulate access on a case-by-case basis, reacting to individual site access plans as they are submitted for permit approvals. Standards of review are inadequate. The granting of an access permit is also the leverage point for developer-provided improvements. In the absence of objective standards, some developers provide a great deal more than others. We urge objective regional standards of fairness for the review of development proposals to correct these inequities.

3. The Development Review Process Fails To Protect The Long-range Public Interest

Third, and more fundamentally, we need to address the overall inefficiencies of New Jersey's regional development planning and review process. This process has become an impediment to rational growth - and rational conservation. We now have a system that relies first on regulation, and far less on planning. That is, the system looks closely at each development application, but fails to assess the full impact of a pattern of development spread over time and space. Cumulative and secondary effects are often ignored.

We need to reform our land use management system so that it places local regulation in a context of advance planning at a regional scale. We also need to clear away the red tape, the duplicative reviews, the inter-governmental frictions - and often adversities - that thwart our need to make land use decisions that are speedier, fairer, and wiser.

TRANSPLAN, in our view, has the potential to deal constructively with many of these problems. We support TRANSPLAN. Our support is conditioned

on amendments we seek, to meet the following specific concerns:

1. Consistency

The County-Municipal Planning Partnership bill (S-2626) should include requirements for consistency between local and state plans - on issues of regional concern. Inducements for consistency and sanctions for inconsistency should be provided. Consistency provisions will shift government's emphasis from regulation to planning. They will, in this way, help to provide an environment conducive to private investment.

2. Land Use And Infrastructure

The Planning Partnership bill should include provisions to join land use and transportation planning - at each level of government. Standards of review should likewise incorporate land use provisions. To leave land use to local government and infrastructure to the state is simply to perpetuate the perennial mismatch between development, transportation, and other essential infrastructure.

3. Review of Development Proposals

The review process for "Developments Of Regional Impact" (DRIs) should be made concurrent with the municipal review process to a greater degree in an effort to reduce red tape and speed the review process. Each county should be permitted to define DRIs within statutory standards and with reference to its own county plan.

4. Transportation Corridors

The State Planning Commission will prepare a State Development and Redevelopment Plan by July, 1987. Growth areas will be identified. TRANSPLAN should include stipulations that the establishment of Transportation Development Districts (TDDs) should be restricted to growth areas as identified in the plan. The State Planning Commission's work is of surpassing importance to New Jersey. TRANSPLAN should serve to implement the Commission's land use plans with transportation service means.

5. Urban Areas

Transportation corridors should be redefined so as to make it clear that urban areas are not excluded from the benefits of the legislation.

6. Traffic Reduction

The Transportation Development District bill (S-2628) should establish reduction of automobile trips as a goal of the state within transportation corridors. Land use arrangements, flextime, parking restrictions, shuttle buses, and other means are available to accomplish this. MSM, our own organization, has established a private-sector Transportation Management Association (TMA) as a means of implementing some

of them.

7. Stable Funding For Transportation

MSM supports a five cent increase in the New Jersey gas tax and its dedication to a renewed Transportation Trust Fund, as proposed by Commissioner Gluck.

8. Grants-in-aid For Technical Support

Each county should be provided with a minimum of \$150,000 (\$50,000 for each of three years) to implement the provisions of TRANSPLAN. These measures will collectively impose new responsibilities on county government. Funding for new staff and technical services will be critical for timely implementation. Experience from other states indicates that financial assistance is essential to the implementation of new regional development programs.

* * * * *

We have previously submitted several additional sets of comments on TRANSPLAN. We would like to have your staff review and include them in this hearing's record. These include (1) A review of the TDD bill by Robert Freilich, Esq., a nationally recognized expert on impact fees; (2) a statement on the TDD and Access bills by the REGIONAL FORUM, a regional leadership organization; (3) A statement on a previous draft of TRANSPLAN by MSM; and (4) A report on county planning, with legislative recommendations, by MSM. We believe this additional material will be useful to you.

Let me emphasize that this testimony is general in scope and pointedly silent on some issues that are of critical importance, particularly to our area's developers. Such issues include, for example, the classes of property to be assessed within TDDs, and the degree to which assessment should be retroactive. Our Board of Directors feels that issues such as this should be negotiated with the developers and the Department of Transportation, through the legislative process. Such issues, we believe, can be resolved within TRANSPLAN's scope.

We expect that you will exert your leadership in bringing together the various interests whose participation and support will be essential to the success of this legislation - including the state's broad-based civic and business organizations as well as government and developer interests.

Our Board of Directors agrees that the time for TRANSPLAN has come. Considerable groundwork for these proposals has been laid in previous legislation and in hearings conducted in 1985 and 1986 by Assemblyman McEnroe and Assemblyman Penn.

A public opinion survey conducted in January, 1987 for the State Planning Commission indicates that there is citizen support in New Jersey for more effective growth management. For example, the survey found that New

Jerseyans are not so "home rule" oriented as we have been lead to think when it comes to managing growth. Indeed, more poll respondents selected the state (30%) and the county (23%) than selected their town or city (35%) for the level of government that could do the best job. A similar poll conducted in May 1985 in central New Jersey found that 44% of the respondents favored regional control, while 41% favored local. We find these results encouraging, particularly when we keep in mind that we we really seek is a cooperative approach among governments, not an exclusive charter for one level over another.

Many constructive discussions have been held on TRANSPLAN in our region as elsewhere in the state in recent months. We look forward to working with you and your staff on the necessary revisions to this legislation, which is so vital to the future of our region and the state.