

ASSEMBLY, No. 2560

STATE OF NEW JERSEY

INTRODUCED DECEMBER 9, 1996

By Assemblymen DeCROCE and GIBSON

1 AN ACT concerning transportation projects, amending and  
2 supplementing Title 27 of the Revised Statutes.

3

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

6

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

8 a. A safe and efficient transportation system is essential to the  
9 economic and social well-being of the State and its people, and is a  
10 sound economic investment opportunity for both private and public  
11 resources.

12 b. The use of public-private transportation initiatives would  
13 enhance the ability of the State to provide a safe and efficient  
14 transportation system through use of alternate funding sources and  
15 private sector efficiencies; supplement the State's transportation  
16 resources in order to allow the State to use its limited resources for  
17 other needed projects; and encourage and promote business and  
18 employment opportunities for the citizens of New Jersey.

19

20 2. (New Section) As used in this act:

21 "Commissioner" means the Commissioner of Transportation.

22 "Corporation" means the New Jersey Transit Corporation.

23 "Department" means the Department of Transportation.

24 "Demonstration project" means a transportation project selected by  
25 the commissioner pursuant to section 3 of this act.

26 "Developer" means a public or private entity or consortia thereof  
27 selected by the public partner from among proposers to develop a  
28 demonstration project.

29 "Intelligent transportation systems" means the equipment, facilities,  
30 property, information management and communications resources  
31 which are necessary or desirable for the advancement, management, or  
32 operation of a multi-modal transportation network.

33 "Public highways" means public roads, streets, expressways,  
34 freeways, parkways, motorways and boulevards, including bridges,

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

**Matter underlined thus is new matter.**

1 tunnels, overpasses, underpasses, interchanges, rest areas, express bus  
2 roadways, bus pullouts and turnarounds, park-ride facilities, traffic  
3 circles, grade separations, intelligent transportation systems, traffic  
4 control devices, the elimination or improvement of crossings of  
5 railroads and highways, whether at grade or not at grade, and any  
6 facilities, equipment, property, rights of way, easements and interests  
7 therein needed for the construction, improvement and maintenance of  
8 highways or intelligent transportation systems.

9 "Public partner" means the Department of Transportation or the  
10 New Jersey Transit Corporation, as the case may be.

11 "Public transportation project" means, in connection with public  
12 transportation service, passenger stations, shelters and terminals,  
13 automobile parking facilities, ramps, track connections, signal systems,  
14 power systems, information and communication systems, roadbeds,  
15 transit lanes or rights of way, equipment storage and servicing  
16 facilities, bridges, grade crossings, rail cars, locomotives, motorbuses  
17 and other motor vehicles, maintenance and garage facilities, revenue  
18 handling equipment and any other equipment, facility or property  
19 useful for or related to the provision of public transportation service.

20 "Transportation project" means, in addition to public highways and  
21 public transportation projects, any equipment, facility or property  
22 useful or related to the provision of any ground, waterborne or air  
23 transportation for the movement of people and goods.

24

25 3. (New Section) a. Commencing with the fiscal year beginning  
26 after the effective date of this act and for the next four succeeding  
27 fiscal years, the commissioner is authorized to select up to seven  
28 transportation projects from the list of transportation projects in the  
29 annual appropriations acts for those five fiscal years to serve as  
30 demonstration projects.

31 b. Selection by the commissioner of demonstration projects  
32 pursuant to subsection a. of this section which are public  
33 transportation projects shall be made with the approval of the board  
34 of the corporation.

35 c. If a transportation project is not listed in the annual  
36 appropriations acts, the commissioner may submit that project as a  
37 demonstration project to the Legislature for approval. The  
38 commissioner shall make the submission to the Legislature to the  
39 President of the Senate and the Speaker of the General Assembly on  
40 a day when both houses are meeting. The President and the Speaker  
41 shall cause the date of submission to be entered upon the Senate  
42 Journal and the Minutes of the General Assembly, respectively. Unless  
43 the project as described in the submission is disapproved by adoption  
44 of a concurrent resolution to this effect by the affirmative vote of a  
45 majority of the authorized membership of both houses within the time  
46 period prescribed in this subsection, the project shall be deemed

1 approved and the public partner shall be authorized to undertake the  
2 project. The time period shall commence on the day of submission and  
3 expire on the forty-fifth day after submission or for a house not  
4 meeting on the forty-fifth day, on the next meeting day of that house.

5  
6 4. (New Section) a. public partner is authorized to solicit  
7 proposals in the five fiscal years after the effective date of this act, as  
8 provided in subsection a. of section 3 of this act, from developers to  
9 plan, design, construct, equip, operate, finance, improve and maintain,  
10 or any combination thereof, demonstration projects selected by the  
11 commissioner pursuant to section 3 of this act.

12 b. A public partner shall select proposals for negotiation of public-  
13 private demonstration project agreements based on the overall benefit  
14 to the State, the qualifications and financial strength of the proposer,  
15 the proposer's responsiveness to the public partner's requirements, the  
16 total project cost to be incurred by the public partner, the nature of  
17 project financing, the revenues to be generated by the project on behalf  
18 of and in support of the State, the impact of any direct or indirect user  
19 fees and any other evaluation criteria the public partner deems  
20 appropriate. The public partner shall negotiate with one or more  
21 proposers to reach an agreement in the best interests of the State.

22 c. Any power possessed by a public partner pursuant to this act or  
23 any other act or any function performed by the department or the  
24 corporation, as the case may be, with respect to transportation  
25 projects may be used by that public partner to facilitate the  
26 development, construction, maintenance and operation of  
27 demonstration projects selected pursuant to this act. Agreements  
28 entered into pursuant to this act may provide for full reimbursement  
29 to the State for services rendered by the public partner or other State  
30 entities or agencies or for the provision of revenues generated to the  
31 State. The public partner is authorized to enter into financing,  
32 funding, and credit agreements on such terms as the commissioner  
33 deems favorable to the State to promote the purposes of this act.

34 d. An agreement entered into pursuant to this act shall provide for  
35 a public involvement and information process to apply to each  
36 demonstration project. The purpose of the public involvement and  
37 information process shall be to disseminate and provide information  
38 about the demonstration project to the public, prospective project  
39 users, and the residents of communities affected by the project, and to  
40 establish a formal means by which interested persons may comment  
41 upon the project and make suggestions.

42  
43 5. (New Section) a. The department's financial participation in  
44 any demonstration project undertaken pursuant to this act shall be  
45 subject to legislative appropriation. The corporation's financial  
46 participation in any demonstration project undertaken pursuant to this

1 act shall be subject to the availability of funds. Participation by a  
2 public partner may take the form of loans or such other financial credit  
3 arrangements as may be appropriate to advance an approved project.  
4 Agreements entered into pursuant to this act shall provide such loans  
5 or other credit arrangements made by the public partner shall yield a  
6 reasonable return and be amortized over the term of such agreement,  
7 or such lesser period as may be agreed to by the parties.

8 b. Agreements entered into pursuant to this act shall provide for  
9 the allocation of ownership, leasehold, and other property interests in  
10 demonstration projects.

11 c. The agreement may authorize the developer to set and impose  
12 rents, fares or user fees for use of a facility constructed by it and may  
13 require that over the term of the agreement, the rent, fare or fee  
14 revenues received by the developer be applied to repayment of the  
15 developer's capital outlay costs, interest expense, costs associated with  
16 operations, fare or user fee collection, facility management,  
17 reimbursement of the State's project review and oversight costs,  
18 repayment of loans, revenues to the State, technical and law  
19 enforcement services, and a reasonable return on investment to the  
20 developer.

21 d. The agreement shall specify the manner in which rents, fares or  
22 user fees are to be established or revised, the procedures for receiving  
23 public comment on the establishment or revision of fares or user fees,  
24 including the holding of a public hearing thereon, and the procedures  
25 by which the public partner shall oversee the establishment or revision  
26 of fares or user fees.

27  
28 6. (New Section) Demonstration projects constructed by and  
29 leased by a developer pursuant to this act shall, from the  
30 commencement of operation, be deemed to be a part of the State  
31 highway system for purposes of the enforcement of traffic and other  
32 applicable laws or a part of the State public transportation system for  
33 the purposes of enforcement of all applicable laws, as the case may be.

34  
35 7. (New Section) a. Transportation projects selected pursuant to  
36 this act shall be designed, constructed, operated and maintained in  
37 accordance with all applicable environmental requirements and all  
38 other applicable State and federal laws and regulations necessary to  
39 the protection of the public health, safety and welfare.

40 b. Unless determined otherwise by the corporation, in its sole  
41 discretion, the plans and specifications for each demonstration project  
42 shall comply with the corporation's standards for public transportation  
43 projects.

44 c. Unless determined otherwise by the commissioner, in his sole  
45 discretion, the plans and specifications for each transportation project

1 other than public transportation projects shall comply with the  
2 department's standards for State transportation projects.

3

4 8. (New Section) All absolute and qualified immunities and  
5 defenses provided to public entities and public employees by the "New  
6 Jersey Tort Claims Act," N.J.S.59:1-1 et seq., the "New Jersey  
7 Contractual Liability Act," N.J.S.59:13-1 et seq., and any other law  
8 shall apply to all interests held and activities performed by the  
9 department, the corporation and other State agencies in connection  
10 with the demonstration projects authorized pursuant to this act.

11

12 9. (New Section) a. The public partner may agree to defend and  
13 indemnify any person, who, pursuant to a written agreement with the  
14 public partner entered into in accordance with this act, designs,  
15 constructs, operates, maintains, leases or otherwise holds an interest  
16 in a demonstration project, against claims, causes of action, demands,  
17 costs or judgements against that person arising as a direct result of the  
18 design, construction, interest, operation, or maintenance of that  
19 demonstration project. The public partner is authorized to reach  
20 agreements to defend and indemnify a person upon the terms and  
21 limitations the public partner deems reasonable and appropriate.

22 b. A determination by the public partner to defend and indemnify  
23 pursuant to this section does not bar, reduce, limit or affect any  
24 remedies which the public partner may have to enforce the agreement  
25 between the public partner and the developer to assert a claim for  
26 damages to which the public partner may be entitled arising out of the  
27 developer's failure to perform the agreement, or for the recovery of  
28 funds expended for the defense of the developer if the defense was  
29 undertaken in response to a claim or cause of action brought against  
30 the developer which is proven to have arisen from gross negligence,  
31 willful misconduct, fraud, intentional tort, bad faith or criminal  
32 conduct.

33 c. No one other than the person operating, maintaining, leasing or  
34 otherwise holding an interest in the demonstration project pursuant to  
35 an agreement with the public partner has the right to enforce any  
36 agreement for defense or indemnification between that person and the  
37 public partner.

38

39 10. Section 5 of P.L.1966, c.301 (C.27:1A-5) is amended to read  
40 as follows:

41 5. The commissioner, as head of the department, shall have all of  
42 the functions, powers and duties heretofore vested in the State  
43 Highway Commissioner and shall, in addition to the functions, powers  
44 and duties vested in him by this act or by any other law:

45 (a) Develop and maintain a comprehensive master plan for all  
46 modes of transportation development, with special emphasis on public

- 1 transportation. Such plan shall be revised and updated at least every  
2 five years;
- 3 (b) Develop and promote programs to foster efficient and  
4 economical transportation services in the State;
- 5 (c) Prepare plans for the preservation, improvement and expansion  
6 of the public transportation system, with special emphasis on the  
7 coordination of transit modes and the use of rail rights of way,  
8 highways and public streets for public transportation purposes;
- 9 (d) Enter into contracts with the New Jersey Transit Corporation  
10 for the provision and improvement of public transportation services;
- 11 (e) Coordinate the transportation activities of the department with  
12 those of other public agencies and authorities;
- 13 (f) Cooperate with interstate commissions and authorities, State  
14 departments, councils, commissions and other State agencies, with  
15 appropriate federal agencies, and with interested private individuals  
16 and organizations in the coordination of plans and policies for the  
17 development of air commerce and air facilities;
- 18 (g) Make an annual report to the Governor and the Legislature on  
19 the department's operations, and render such other reports as the  
20 Governor shall from time to time request or as may be required by law;
- 21 (h) Promulgate regulations providing for the charging of and  
22 setting the amount of fees for certain services performed by and  
23 permits issued by the department, including but not limited to the  
24 following:
- 25 (1) Providing copies of documents prepared by or in the custody  
26 of the department;
- 27 (2) Aeronautics permits;
- 28 (3) Right-of-way permits;
- 29 (4) Traffic signal control systems;
- 30 (i) Develop and promote programs for the preservation,  
31 improvement and expansion of freight railroads, with special emphasis  
32 on the use of rail rights of way for the purpose of providing rail freight  
33 service;
- 34 (j) Develop and promote a program to ensure the safety and  
35 continued operation of aviation facilities in New Jersey; [and]
- 36 (k) Enter into agreements with a public or private entity or  
37 consortia thereof to provide for the development of demonstration  
38 projects through the use of public-private partnerships pursuant to  
39 sections 1 through 9 of P.L. 19 ,c. (C. ) (now before the  
40 Legislature as this bill); and
- 41 (l) Do any and all things necessary, convenient or desirable to  
42 effectuate the purposes of P.L.1966, c.301 (C.27:1A-1 et seq.) and to  
43 exercise the powers given and granted in that act.
- 44 (cf: P.L.1986, c.56, s.1)

1       11. Section 2 of P.L.1986, c.56 (C.27:1A-5.1) is amended to read  
2 as follows:

3       2. The commissioner, pursuant to subsection (i) of section 5 of  
4 P.L.1966, c.301 (C.27:1A-5), may:

5       a. Plan, design, construct, equip, operate, improve and maintain,  
6 either directly or by contract with any public or private entity, a  
7 railroad, subway, street traction or electric railway, or connecting  
8 roadways and facilities for the purpose of carrying freight in this State  
9 or between in this State and points in other states;

10       b. Acquire by purchase, condemnation, lease, gift or otherwise, on  
11 terms and conditions and in the manner he deems proper, any land or  
12 property, real or personal, tangible or intangible, which he may  
13 determine is reasonably necessary for the purposes of this section;

14       c. Lease as lessor, sell or otherwise dispose of, on terms and  
15 conditions which he may prescribe as appropriate, real and personal  
16 property, including tangible or intangible property and consumable  
17 goods; or any interest therein, to any public or private entity in the  
18 exercise of his powers and the performance of his duties under this  
19 section, and may, in order to provide or encourage adequate and  
20 efficient rail freight service, lease or otherwise permit the use or  
21 occupancy of property without cost or at a nominal rental;

22       d. Upon declaration by him that there are no other prospects for  
23 competitive bidding, make, negotiate or award any purchase, contract  
24 or agreement pursuant to this section without advertisement.

25 (cf: P.L.1986, c.56, c.2)

26

27       12. Section 5 of P.L.1979, c.150 (C.27:25-5) is amended to read  
28 as follows:

29       5. In addition to the powers and duties conferred upon it elsewhere  
30 in this act, the corporation may do all acts necessary and reasonably  
31 incident to carrying out the objectives of this act, including but not in  
32 limitation thereof the following:

33       a. Sue and be sued;

34       b. Have an official seal and alter the same at pleasure;

35       c. Make and alter bylaws for its organization and internal  
36 management and for the conduct of its affairs and business;

37       d. Maintain an office at such place or places within the State as it  
38 may determine;

39       e. Adopt, amend and repeal such rules and regulations as it may  
40 deem necessary to effectuate the purposes of this act, which shall have  
41 the force and effect of law; it shall publish the same and file them in  
42 accordance with the "Administrative Procedure Act," P.L.1968, c.410  
43 (C.52:14B-1 et seq.) with the Director of the Office of Administrative  
44 Law;

45       f. Call to its assistance and avail itself of the service of such  
46 employees of any federal, State, county or municipal department or

- 1 agency as it may require and as may be available to it for said purpose;
- 2 g. Apply for, accept and expend money from any federal, State,  
3 county or municipal agency or instrumentality and from any private  
4 source; comply with federal statutes, rules and regulations, and qualify  
5 for and receive all forms of financial assistance available under federal  
6 law to assure the continuance of, or for the support or improvement  
7 of public transportation and as may be necessary for that purpose to  
8 enter into agreements, including federally required labor protective  
9 agreements;
- 10 h. Plan, design, construct, equip, operate, improve and maintain,  
11 either directly or by contract with any public or private entity, public  
12 transportation services, capital equipment and facilities or any parts or  
13 functions thereof, and other transportation projects, or any parts or  
14 functions thereof, which may be funded under section 3 of the federal  
15 Urban Mass Transportation Act of 1964, P.L.88-365 (49 U.S.C.  
16 {1602), or any successor or additional federal act having substantially  
17 the same or similar purposes or functions; the operation of the  
18 facilities of the corporation, by the corporation or any public or private  
19 entity, may include appropriate and reasonable limitations on  
20 competition in order that maximum service may be provided most  
21 efficiently to the public;
- 22 i. Apply for and accept, from appropriate regulatory bodies,  
23 authority to operate public transportation services where necessary;
- 24 j. Purchase, lease as lessee, or otherwise acquire, own, hold,  
25 improve, use and otherwise deal in and with real or personal property,  
26 or any interest therein, from any public or private entity, wherever  
27 situated;
- 28 k. Lease as lessor, sell or otherwise dispose of on terms which the  
29 corporation may prescribe, real and personal property, including  
30 tangible or intangible property and consumable goods, or any interest  
31 therein, to any public or private entity, in the exercise of its powers  
32 and the performance of its duties under this act. In order to provide  
33 or encourage adequate and efficient public transportation service, the  
34 corporation may lease or otherwise permit the use or occupancy of  
35 property without cost or at a nominal rental;
- 36 l. Restrict the rights of persons to enter upon or construct any  
37 works in or upon any property owned or leased by the corporation,  
38 except under such terms as the corporation may prescribe; perform or  
39 contract for the performance of all acts necessary for the management,  
40 maintenance and repair of real or personal property leased or  
41 otherwise used or occupied pursuant to this act;
- 42 m. Establish one or more operating divisions as deemed necessary.  
43 Upon the establishment of an operating division, there shall be  
44 established a geographically coincident advisory committee to be  
45 appointed by the Governor with the advice and consent of the Senate.  
46 The committee shall consist of county and municipal government

1 representatives and concerned citizens, in the number and for such  
2 terms as may be fixed by the corporation, and shall advise the  
3 corporation as to the public transportation service provided in the  
4 operating division. At least two members of each advisory committee  
5 shall be public transportation riders, including but not limited to urban  
6 transit users and suburban commuters as appropriate. One public  
7 member from the board of corporation shall serve as a liaison to each  
8 advisory committee;

9 n. Set and collect fares and determine levels of service for service  
10 provided by the corporation either directly or by contract including,  
11 but not limited to, such reduced fare programs as deemed appropriate  
12 by the corporation; revenues derived from such service may be  
13 collected by the corporation and shall be available to the corporation  
14 for use in furtherance of any of the purposes of this act;

15 o. Set and collect rentals, fees, charges or other payments from the  
16 lease, use, occupancy or disposition of properties owned or leased by  
17 the corporation; such revenues shall be available to the corporation for  
18 use in furtherance of any of the purposes of this act;

19 p. Deposit corporate revenues in interest bearing accounts or in the  
20 State of New Jersey Cash Management Fund established pursuant to  
21 section 1 of P.L.1977, c.28 (C.52:18A-90.4);

22 q. Delegate to subordinate officers of the corporation such powers  
23 and duties as the corporation shall deem necessary and proper to carry  
24 out the purposes of this act;

25 r. Procure and enter into contracts for any type of insurance and  
26 indemnify against loss or damage to property from any cause,  
27 including loss of use and occupancy, against death or injury of any  
28 person, against employees' liability, against any act of any member,  
29 officer, employee or servant of the corporation, whether part-time,  
30 full-time, compensated or noncompensated, in the performance of the  
31 duties of his office or employment or any other insurable risk. In  
32 addition, the corporation may carry its own liability insurance;

33 s. Promote the use of public transportation services, coordinate  
34 ticket sales and passenger information and sell, lease or otherwise  
35 contract for advertising in or on the equipment or facilities of the  
36 corporation;

37 t. Adopt and maintain employee benefit programs for employees of  
38 the corporation including, but not limited to, pension, deferred  
39 compensation, medical disability, and death benefits, and which  
40 programs may utilize insurance contracts, trust funds, and any other  
41 appropriate means of providing the stipulated benefits, and may  
42 involve new plans or the continuation of plans previously established  
43 by entities acquired by the corporation;

44 u. Own, vote, and exercise all other rights incidental to the  
45 ownership of shares of the capital stock of any incorporated entity  
46 acquired by the corporation pursuant to the powers granted by this

1 act;

2 v. Enter into any and all agreements or contracts, execute any and  
3 all instruments, and do and perform any and all acts or things  
4 necessary, convenient or desirable for the purposes of the corporation,  
5 or to carry out any power expressly or implicitly given in this act;  
6 [and,]

7 w. Notwithstanding the provisions of section 17 of P.L.1979, c.150  
8 (C.27:25-17) or any other law to the contrary, (1) issue operating  
9 grant anticipation notes which shall be secured and retired from  
10 operating assistance grants authorized under section 9 of the federal  
11 Urban Mass Transportation Act of 1964, P.L.88-365 (49 U.S.C.  
12 {1602), or any successor or additional federal act having substantially  
13 the same or similar purposes or functions and (2) issue capital grant  
14 anticipation notes which shall be secured and retired from capital  
15 assistance grants authorized under section 3 or section 9 of the federal  
16 Urban Mass Transportation Act of 1964, P.L.88-365 (49 U.S.C.  
17 {1602), or any successor or additional federal act having substantially  
18 the same or similar purposes or functions. As used in this subsection,  
19 "operating grant anticipation notes" or "capital grant anticipation  
20 notes" (hereafter referred to as "notes") means credit obligations  
21 issued in anticipation of these grants. The notes shall be authorized by  
22 a resolution or resolutions of the corporation, and may be issued in  
23 one or more series and shall bear the date, or dates, bear interest at the  
24 rate or rates of interest per annum, be in the denomination or  
25 denominations, be in the form, carry the conversion or registration  
26 privileges, have the rank or priority, be executed in such manner as the  
27 resolution or resolutions require. The notes may be sold at public or  
28 private sale at the price or prices and in the manner that the  
29 corporation determines. The notes of the corporation, the sale or  
30 transfer thereof, and the income derived therefrom by the purchasers  
31 of the notes, shall, at all times, be free from taxation for State or local  
32 purposes, under any law of the State or any political subdivision  
33 thereof. Notes may be issued under the provisions of P.L.1979, c.150  
34 (C.27:25-1 et seq.) without obtaining the consent of any department,  
35 division, commission, board, bureau or agency of the State, and  
36 without any other proceedings, conditions, or things which are  
37 specifically required by P.L.1979, c.150 (C.27:25-1 et seq.). The  
38 notes issued pursuant to P.L.1979, c.150 (C.27:25-1 et seq.) shall not  
39 in any way create or constitute any indebtedness, liability or obligation  
40 of the State or of any political subdivision thereof or of the  
41 corporation, except as provided herein.

42 The notes shall be payable solely from (1) note proceeds, to the  
43 extent not disbursed to the corporation, (2) grant payments if, as, and  
44 when received from the federal government, and (3) investment  
45 earnings on note proceeds, to the extent not disbursed to the  
46 corporation. Each note shall contain on its face a statement to the

1 effect that the corporation is obligated to pay the principal thereof or  
2 the interest thereon only from these grants to the corporation and from  
3 the proceeds of the notes and investment earnings on the proceeds of  
4 the notes, to the extent not disbursed to the corporation, and that  
5 neither the faith and credit nor the taxing power of the State or of any  
6 political subdivision thereof or of the corporation is pledged to the  
7 payment of the principal and interest on these notes. Neither the  
8 members of the corporation's board nor any person executing the  
9 transactions are personally liable on those notes nor are they otherwise  
10 liable for their actions; and.

11 x. Enter into agreements with a public or private entity or consortia  
12 thereof to provide for the development of demonstration projects  
13 through the use of public-private partnerships pursuant to sections 1  
14 through 9 of P.L. 19 ,c. (C. ) (now before the Legislature as this  
15 bill).

16 (cf: P.L.1989, c.130, s.1)

17

18 13. Section 12 of P.L.1995, c.108 (C.27:1B-21.5) is amended to  
19 read as follows:

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

28 b. The commissioner, with the approval of the State Treasurer,  
29 shall establish rules and regulations governing the qualifications of the  
30 applicants, the application procedures, the criteria for awarding loans,  
31 and the standards for establishing the amount, terms and conditions of  
32 each loan. The rules and regulations shall provide that the term of the  
33 loan agreement shall be [no longer than five years and that the loan  
34 shall be secured by appropriate collateral or guarantees]consistent with  
35 terms and conditions as provided by applicable federal law.

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

46 d. Each loan made pursuant to this section shall require the specific

1 approval of the Joint Budget Oversight Committee , except for those  
2 loans agreed to by the commissioner as part of an agreement for a  
3 demonstration project approved pursuant to P.L. 19 , c. (C. )(now  
4 before the Legislature as this bill) . The Chairman of the Joint Budget  
5 Oversight Committee may request periodic reports from the  
6 commissioner on the status of any or all loans. The commissioner shall  
7 provide reports so requested on a timely basis.

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

13 (cf: P.L.1995, c.108, s.12)

14  
15 14. This act shall take effect immediately.

16  
17  
18 STATEMENT

19  
20 This bill would authorize the Commissioner of Transportation (the  
21 commissioner) to select seven transportation projects to be developed  
22 as demonstration projects using public-private partnership agreements.

23 The commissioner would select seven projects from the list of  
24 transportation projects in the annual appropriations acts for the next  
25 five fiscal years. However, if a project is not contained in the  
26 appropriations acts, the bill requires legislative approval before that  
27 project is developed as a demonstration project.

28 The bill authorizes a public partner, namely, the Department of  
29 Transportation (the department) or the New Jersey Transit  
30 Corporation (the corporation), to solicit proposals from private or  
31 public entities or consortia thereof to plan, design, construct, equip  
32 operate, finance, improve and maintain demonstration projects. The  
33 public partner would negotiate with one or more proposers to reach  
34 an agreement in the best interests of the State.

35 Any power possessed or function performed by a public partner  
36 may be used by the public partner to facilitate the development,  
37 construction, maintenance and operation of demonstration projects.

38 An agreement entered into would include the requirement that a  
39 developer include public involvement in the development of a  
40 demonstration project and to periodically provide a forum for users  
41 and residents of the affected project area throughout the development  
42 and implementation of a demonstration project.

43 Agreements may authorize the developer to set and impose rents,  
44 fares or user fees for use of a facility constructed by the developer and  
45 may provide that the revenues received by the developer by applied to  
46 the repayment of the developer's capital outlay costs, interest expense,

1 costs associated with operations, fare or user fee collection, facility  
2 management, reimbursement of State project review and oversight  
3 costs, repayment of loans, technical and law enforcement services, and  
4 a reasonable return on investment to the developer.

5 Demonstration projects constructed by and leased by a developer  
6 would, from the commencement of operation, be deemed to be a part  
7 of the State highway system for purposes of the enforcement of traffic  
8 and other applicable laws or a part of the State public transportation  
9 system for the purposes of enforcement of all applicable laws, as the  
10 case may be.

11 Demonstration projects would be subject to all applicable  
12 environmental requirements and all other applicable State and federal  
13 laws and regulations necessary to the protection of the public health,  
14 safety and welfare. The demonstration projects are to comply with  
15 departmental or corporation standards for transportation projects,  
16 unless determined otherwise. The bill provides that all absolute and  
17 qualified immunities and defenses provided to the State and State  
18 employees shall apply to all interests held and activities performed by  
19 the department, the corporation and other State agencies in connection  
20 with demonstration projects. The bill also authorizes the public  
21 partner to enter into indemnification agreements in connection with the  
22 demonstration project.

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27 Authorizes development of seven public-private transportation  
28 demonstration projects over next five fiscal years.