

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A:7A-14 et al (State operated school districts-- authorize)

LAWS OF: 1987 **CHAPTER:** 398

BILL NO: A4643

Sponsor(s): Gargiulo and others

Date Introduced: November 23, 1987

Committee: **Assembly:** Education
Senate: Education

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: **Assembly:** November 30, 1987
Senate: December 21, 1987

Date of Approval: January 13, 1988

following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes
Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: Yes

974.90 New Jersey. Legislature.
S372 Senate Committee on Education.
1986a Public hearing on S2355, S2356, A2926 and A2927, held 6-20-86, 9-16-86, 9-25-86, 10-7-86 and 10-14-86, Trenton, Paramus, Camden, Jersey City, 1986.

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(OVER)

See newspaper clipping file "N.J.-- School districts-- 1987 and 1988, in New Jersey Reference Department.

See also-- attached:

"Finally-- intervention becomes law," 1-88 New Jersey Education Bulletin.

[SECOND SENATE REPRINT]

ASSEMBLY, No. 4643

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1987

By Assemblymen GARGIULO, PALAIA, Assemblywoman Donovan,
Assemblyman Villane, Assemblywoman Garvin, Assemblymen
Haytaian, Kavanaugh and Franks

AN ACT concerning the establishment of State-operated school dis-
tricts, amending and supplementing P. L. 1975, c. 212 and
amending P. L. 1979, c. 294.

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 New Jersey Constitution requires that the State maintain
3 and support a thorough and efficient system of free public schools
4 for the instruction of all children in the State between the ages of
5 five and 18;

6 b. In compliance with this mandate, the State Department of
7 Education monitors school districts and during the monitoring
8 process attempts to assist school districts with correcting any
9 deficiencies identified by the monitoring;

10 c. The monitoring process may reveal some school districts which
11 are unwilling or unable to correct the deficiencies identified during
12 the process; and

13 d. The State Department of Education should be empowered with
14 the necessary and effective authority in extreme cases to take over
15 a local school district which cannot or will not correct severe and
16 complex deficiencies in that school district.

1 2. Section 14 of P. L. 1975, c. 212 (C. 18A:7A-14) is amended to
2 read as follows:

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate amendments adopted December 10, 1987.

**—Senate amendments adopted December 17, 1987.

3 14. a. The commissioner shall review the results of the evalua-
4 tions conducted and reports submitted pursuant to sections 10 and
5 11 of this act. If the commissioner shall find that [a school or] a
6 school district *satisfies the evaluation criteria, the commissioner*
7 *shall recommend that the State board certify the school district as*
8 *providing a thorough and efficient system of education. If the com-*
9 *missioner shall find that a school district has failed to show sufficient*
10 *progress toward the goals, guidelines, objectives and standards, in-*
11 *cluding the State goal and any local interim goal concerning pupil*
12 *proficiency in basic communications and computational skills, estab-*
13 *lished in and pursuant to this act, [he] the commissioner shall*
14 *advise the local board of education of such determination, and shall*
15 *direct that the district enter level II monitoring, as defined pur-*
16 *suant to law and regulation.*

17 b. *When a district enters level II monitoring, the commissioner*
18 *shall direct the local board to prepare [a remedial plan be prepared*
19 *and submitted to him] an improvement plan and submit the plan*
20 *to the commissioner for approval. The improvement plan shall be*
21 *based upon the school district's own internal review and assess-*
22 *ment of those remedial activities necessary to correct those de-*
23 *ficiencies noted in the evaluations and reports. If the commissioner*
24 *approves the plan, [he] the commissioner shall assure its im-*
25 *plementation in a timely and effective manner. If the commissioner*
26 *finds that the [remedial plan prepared by the local board of edu-*
27 *cation is insufficient, he] district is unsuccessful in correcting the de-*
28 *ficiencies noted in the evaluation process, the commissioner shall*
29 *direct that the district enter level III monitoring, as defined pur-*
30 *suant to law and regulation. However, if the commissioner deter-*
31 *mines that a district is making reasonable progress toward correct-*
32 *ing deficiencies, the commissioner may grant an extension for a*
33 *specific period of time. During this extension the district will re-*
34 *main under level II monitoring. At the end of the extension the*
35 *commissioner shall determine whether the district is eligible for*
36 *certification or if the district must be directed to enter level III*
37 *monitoring.*

38 c. *When a district enters level III monitoring the commissioner*
39 *shall establish procedures whereby parents of students in the dis-*
40 *trict may meet with the commissioner or the commissioner's repre-*
41 *sentative to discuss their concerns and the commissioner shall*
42 *designate the county superintendent to appoint an external review*
43 *team whose members shall be qualified by training and experience*
44 *to examine the conditions in the specific district. In conjunction with*

45 *the Department of Education, the team shall examine all aspects*
 46 *of the district's operations including but not limited to education,*
 47 *governance, management and finance. In addition, the team should*
 48 *examine factors external to the district's schools which may con-*
 49 *tribute to the district's deficiencies in educational achievement and*
 50 *may recommend measures to mitigate the effects of those external*
 51 *factors in the schools. The team will report its findings and conclu-*
 52 *sions, including directives to be utilized by the district in the prepa-*
 53 *ration of a corrective action plan to achieve certification, to the*
 54 *commissioner. The commissioner will direct the district to use the*
 55 *report of the external review team to establish a corrective action*
 56 *plan. The corrective action plan must be submitted to and approved*
 57 *by the commissioner. The commissioner shall assure that the local*
 58 *district's budget provides the resources necessary to implement the*
 59 *approved plan. The entire cost of those activities associated with*
 60 *the review team shall be paid by the Department of Education. If*
 61 *the commissioner finds, based upon the findings and directives of*
 62 *the review team and the Department of Education, that conditions*
 63 *within the district may preclude the successful implementation of*
 64 *a corrective action plan or that the district has failed to make*
 65 *reasonable progress in the implementation of a corrective action*
 66 *plan to achieve certification, the commissioner shall direct that a*
 67 *comprehensive compliance investigation be conducted by the De-*
 68 *partment of Education. If the commissioner directs that a compre-*
 69 *hensive compliance investigation be conducted, the commissioner*
 70 *may order any necessary action to insure the security of the books,*
 71 *papers, vouchers and records of the district.*

71A ***d. Whenever a district in Level III monitoring shall be required*
 71B *to implement an approved corrective action plan pursuant to this*
 71C *section, the commissioner shall determine the cost to the district of*
 71D *implementation of those portions of the corrective action plan*
 71E *which are directly responsive to the district's deficiencies as*
 71F *identified in the report of the external review team or, where*
 71G *applicable, by the commissioner. In making this fiscal assessment,*
 71H *the commissioner shall identify those aspects of the corrective*
 71I *action plan which are already contained in the district's current*
 71J *expense budget. Where appropriate, the commissioner shall reallo-*
 71K *cate funds within the district's budget to support the corrective*
 71L *action plan. Once reallocated, any transfers among line items of the*
 71M *district's budget may occur only with the commissioner's approval.*
 71N *The commissioner shall further determine the amount of additional*
 71O *revenue, if any, needed to implement the corrective action plan and*

71p shall recertify a budget for the district. The State shall provide
 71q additional State aid at the district's State support level on a current
 71r year basis for any portion of the budget recertified by the commis-
 71s sioner pursuant to this subsection that exceeds the original budget
 71t of the district for that fiscal year. Whenever the commissioner
 71u shall determine that conditions in a district in Level III monitoring
 71v preclude successful implementation of a corrective action plan and
 71w shall order such a district into comprehensive compliance investiga-
 71x tion, the district shall not be eligible for the additional State educa-
 71y tion aid made available pursuant to this subsection.**

72 **[d.]** **e.** A comprehensive compliance investigation shall
 73 entail a thorough and detailed examination of a district's educa-
 74 tional programs, fiscal practices, governance and management.
 75 Based on the investigation, the commissioner shall issue a report
 76 which will document any irregularities and list all those aspects of
 77 the corrective action plan established pursuant to subsection c. of
 78 this section which have not been successfully implemented by the
 79 district or the conditions which would preclude the district from
 80 successfully implementing a plan. A copy of this report shall be
 81 given to the district. The commissioner shall also order the local
 82 board to show cause why [the corrective actions provided in] an
 83 administrative order, subject to the provisions of section 15 of this
 84 act and section 1 of P. L., c. . . . (C.) (now pending
 85 before the Legislature as Assembly Bill No. 4644 of 1987 or Senate
 86 Bill No. 3767 of 1987) should not be [utilized] implemented. The
 87 plenary hearing before a judge of the Office of Administrative Law,
 88 pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410
 89 (C. 52:14B-1 et seq.), upon said order to show cause shall be con-
 90 ducted in the manner prescribed by subdivision B of article 2 of
 91 chapter 6 of Title 18A of the New Jersey Statutes.

92 In the proceeding the State shall have the burden of showing
 93 that the recommended administrative order is not arbitrary, un-
 94 reasonable or capricious.

1 3. Section 15 of P. L. 1975, c. 212 (C. 18A:7A-15) is amended to
 2 read as follows:

3 15. If, after a plenary hearing, the commissioner determines that
 4 it is necessary to take corrective action, [he] the commissioner
 5 shall have the power to order necessary budgetary changes within
 6 the [school] district[, to order in-service training programs
 7 for teachers and other school personnel, or both. If he determines
 8 that such corrective actions are insufficient, he] or other measures
 9 the commissioner deems appropriate to establish a thorough and
 10 efficient system of education with the exception of the creation of a

11 *State-operated school district. The commissioner shall assure that*
 12 *the local district's budget provides the resources necessary to*
 13 *implement the order. If the commissioner determines that the*
 14 *district has failed to take or is unable to take the corrective actions*
 15 *necessary to establish a thorough and efficient system of education,*
 16 *the commissioner shall [have the power to] recommend to the State*
 17 *board that it [take appropriate action. The State board, on deter-*
 18 *mining that the school district is not providing a thorough and*
 19 *efficient education, notwithstanding any other provision of law to*
 20 *the contrary, shall have the power to issue an administrative order*
 21 *specifying a remedial plan to the local board of education, which*
 22 *plan may include budgetary changes or other measures the State*
 23 *board determines to be appropriate. Nothing herein shall limit the*
 24 *right of any party to appeal the administrative order to the*
 25 *Superior Court.] issue an administrative order creating a State-*
 26 *operated school district. Notwithstanding any other provision of*
 27 *law to the contrary and upon its determining that the school*
 28 *district is not providing a thorough and efficient system of educa-*
 29 *tion, the State board may direct the removal of the district board of*
 30 *education and the creation of a State-operated school district*
 31 *whose functions, funding and authority are defined in P. L. . . . ,*
 32 *c. . . . (C.) (now pending before the Legislature as*
 33 *Assembly Bill No. 4644 of 1987 or Senate Bill No. 3767 of 1987).*
 34 *No order for the creation of a State-operated school district shall*
 35 *issue solely on the basis of a district's failure to correct substan-*
 36 *dard physical facilities. Nothing herein shall limit the right of any*
 37 *party to appeal the State board's order to the Superior Court.*

1 4. Section 2 of P. L. 1979, c. 294 (C. 18A:22-8.1) is amended to
 2 read as follows:

3 2. Whenever a school district desires to transfer amounts among
 4 line items and program categories, the transfers shall be by
 5 resolution of the board of education; however, a board may, by
 6 resolution, designate the chief school administrator to approve
 7 such transfers as are necessary between meetings of the board.
 8 Transfers approved by the chief school administrator shall be
 9 reported to the board, ratified and duly recorded in the minutes at
 10 a subsequent meeting of the board, but not less than monthly. *In*
 11 *a school district wherein the Commissioner of Education has*
 12 *directed a comprehensive compliance investigation pursuant to*
 13 *section 14 of P. L. 1975, c. 212 (C. 18A:7A-14), the board of*
 14 *education shall obtain the written approval of the county super-*
 15 *intendent of school prior to implementing any transfer of funds.*

1 **[5. (New section) a. Whenever a corrective action plan is es-
 2 tablished for a school district pursuant to subsection c. of section 14
 3 of P. L. 1975, c. 212 (C. 18A:7A-14), the Commissioner of Educa-
 4 tion shall prepare a cost analysis of that plan and shall determine
 5 the funds necessary for its implementation. That analysis shall
 6 include an assessment of the funds which can be reallocated from
 7 the base budget of the school district. For the purposes of this
 8 section, "base budget" shall mean the total current expense budget
 9 of the school district for the year in which the corrective action
 10 plan is established. The State shall pay the difference between the
 11 expenditures included in the base budget and the funds necessary
 12 for the implementation of the corrective action plan.

13 b. Annually thereafter, until such time as the district receives
 14 certification or a State-operated school district is established pur-
 15 suant to section 15 of P. L. 1975, c. 212 (C. 18A:7A-15) and P. L.
 16 , c. (C.) (now pending before the Legislature
 17 as Senate Bill No. 3767 and Assembly Bill No. 4644 of 1987), the
 18 commissioner shall adjust the base budget in direct proportion to
 19 the rise or fall of the Consumer Price Index for all urban consumers
 20 in the New York city and the Philadelphia areas as reported by the
 21 United States Department of Labor. The commissioner shall then
 22 determine the funds necessary for the implementation of the cor-
 23 rective action plan for that year. The State shall pay the difference
 24 between the adjusted base budget and the cost for the implementa-
 25 tion of the corrective action plan.

26 c. The commissioner shall not issue an administrative order
 27 pursuant to subsection d. of section 14 of P. L. 1975, c. 212 (C.
 28 18A:7A-14) if the State fails to provide the funds required pur-
 29 suant to this section.**

1 *[5.] * [6.] * *5.* (New section) Pursuant to section 15 of
 2 P. L. 1975, c. 212 (C. 18A:7A-15), the State board shall have full
 3 authority to: a. remove the district board of education, b. create a
 4 State-operated school district, and c. appoint, upon recommendation
 5 of the commissioner, a State district superintendent of schools to
 6 direct all operations of the district, including the implementation of
 7 the administrative order. The State district superintendent of
 8 schools shall have all authority and powers previously vested in
 9 the district board of education.

1 *[6.] * [7.] * *6.* This act shall take effect immediately,
 2 but shall remain inoperative until enactment of P. L.,
 3 c. (C.) (now pending before the Legislature as Assem-
 4 bly Bill No. 4644 of 1987 or Senate Bill No. 3767 of 1987).

EDUCATION—GENERAL

Provides for the establishment of a State-operated school district
in certain circumstances.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4643

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 1987

The Assembly Education Committee favorably reports Assembly Bill No. 4643.

This bill clarifies and elaborates the process whereby the State Department of Education monitors the performance of local school districts and provides procedures for the establishment of a State-operated school district under certain conditions.

Under the bill, if a district satisfies the evaluation criteria established by the department, the district would be certified for a five year period as providing a thorough and efficient education. If the district does not meet the criteria, it would enter level II monitoring. In level II, a district is required to prepare an improvement plan and submit it to the commissioner for approval. If a district fails to achieve certification in level II through the implementation of its own improvement plan, it then enters level III.

At level III, the county superintendent appoints an external review team to examine all aspects of the district's operations. In addition, the teams must examine external factors which may contribute to a district's deficiencies and make recommendations to mitigate the effects of those factors. The team will report its findings and recommendations to the commissioner, who will direct the district to use the report in formulating a corrective action plan. If the commissioner finds that conditions in the district may preclude the successful implementation of the corrective action plan or if the district fails to make reasonable progress in the implementation of the plan, the commissioner shall direct a comprehensive compliance investigation. This investigation shall entail a detailed examination of the district's educational programs, fiscal practices, governance and management. The commissioner shall issue a report on any irregularities and list necessary corrective actions. The commissioner shall also order the district to show cause why the State board should not issue an administrative order establishing a State-operated school district. In a plenary hearing before an administrative law judge the State would have to show that the

State board's administrative order is not arbitrary, unreasonable or capricious.

If, after the hearing, the commissioner determines that a district has failed to take or is unable to take the necessary corrective action, the commissioner shall recommend to the State board that it issue an administrative order creating a State-operated school district. If the State board determines that the district is not providing a thorough and efficient education, the State board may direct the removal of the district's board of education, and the creation of a State-operated district, and may appoint a State district superintendent. This order could not be based solely upon the failure of a district to provide adequate facilities.

The bill also contains the following provisions:

1. The commissioner shall assure that the district's budget provides the resources necessary to implement an approved corrective plan or administrative order.

2. When a district enters level III monitoring the commissioner shall establish a means for the parents of students in the district to meet with the commissioner or the commissioner's representative.

3. All the costs of the external review team will be borne by the State.

4. When a district is under a corrective action plan, any board resolution authorizing line item transfers in the district's budget must be approved by the county superintendent.

Laws providing for the governance of a State-operated district are contained in Assembly Bill No. 4644 of 1987. This bill becomes effective upon the enactment of that bill.

This bill is identical to Senate Bill No. 3766 of 1987.

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SENATE EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4643

STATE OF NEW JERSEY

DATED: DECEMBER 7, 1987

The Senate Education Committee favorably reports Assembly Bill No. 4643 without Senate committee amendments.

This bill clarifies and elaborates the process whereby the State Department of Education monitors the performance of local districts and provides procedures for the establishment of a State-operated school district under certain conditions.

Under the bill, if a district satisfies the evaluation criteria established by the department, the district would be certified for a five year period as providing a thorough and efficient education. If the district does not meet the criteria, it would enter level II monitoring. In level II, a district is required to prepare an improvement plan and submit it to the commissioner for approval. If a district fails to achieve certification in level II through the implementation of its own improvement plan, it then enters level III.

At level III, the county superintendent appoints an external review team to examine all aspects of the district's operations. In addition, the teams must examine external factors which may contribute to a district's deficiencies and make recommendations to mitigate the effects of those factors. The team will report its findings and recommendations to the commissioner, who will direct the district to use the report in formulating a corrective action plan. If the commissioner finds that conditions in the district may preclude the successful implementation of the corrective action plan or if the district fails to make reasonable progress in the implementation of the plan, the commissioner shall direct a comprehensive compliance investigation. This investigation shall entail a detailed examination of the district's educational programs, fiscal practices, governance and management. The commissioner shall issue a report on any irregularities and list necessary corrective actions. The commissioner shall also order the district to show cause why the State board should not issue an administrative order establishing a State-operated school district. In a plenary hearing before an administrative law judge the State would have to show that the State board's administrative order is not arbitrary, unreasonable or capricious.

If, after the hearing, the commissioner determines that a district has failed to take or is unable to take the necessary corrective action, the commissioner shall recommend to the State board that it issue an administrative order creating a State-operated school district. If the State board determines that the district is not providing a thorough and efficient education, the State board may direct the removal of the district's board of education, and the creation of a State-operated district, and may appoint a State district superintendent. This order could not be based solely upon the failure of a district to provide adequate facilities.

The bill also contains the following provisions:

1. The commissioner shall assure that the district's budget provides the resources necessary to implement an approved corrective plan or administrative order.
2. When a district enter level III monitoring the commissioner shall establish a means for the parents of students in the district to meet with the commissioner or the commissioner's representative.
3. All the costs of the external review team will be borne by the State.
4. When a district is under a corrective action plan, any board resolution authorizing line item transfers in the district's budget must be approved by the county superintendent.

Laws providing for the governance of a State-operated district are contained in Senate Bill No. 3767 and Assembly Bill No. 4644 of 1987. This bill becomes effective upon the enactment of either of those bills.

This bill is identical to Senate Bill No. 3766 of 1987.

[SENATE REPRINT]

ASSEMBLY, No. 4643

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INTRODUCED NOVEMBER 23, 1987

By Assemblymen GARGIULO, PALAIA, Assemblywoman Donovan,
Assemblyman Villane, Assemblywoman Garvin, Assemblymen
Haytaian, Kavanaugh and Franks

AN ACT concerning the establishment of State-operated school dis-
tricts, amending and supplementing P. L. 1975, c. 212 and
amending P. L. 1979, c. 29¹

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 New Jersey Constitution requires that the State maintain
3 and support a thorough and efficient system of free public schools
4 for the instruction of all children in the State between the ages of
5 five and 18;

6 b. In compliance with this mandate, the State Department of
7 Education monitors school districts and during the monitoring
8 process attempts to assist school districts with correcting any
9 deficiencies identified by the monitoring;

10 c. The monitoring process may reveal some school districts which
11 are unwilling or unable to correct the deficiencies identified during
12 the process; and

13 d. The State Department of Education should be empowered with
14 the necessary and effective authority in extreme cases to take over
15 a local school district which cannot or will not correct severe and
16 complex deficiencies in that school district.

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 19 *efficient education, notwithstanding any other provision of law to*
 20 *the contrary, shall have the power to issue an administrative order*
 21 *specifying a remedial plan to the local board of education, which*
 22 *plan may include budgetary changes or other measures the State*
 23 *board determines to be appropriate. Nothing herein shall limit the*
 24 *right of any party to appeal the administrative order to the*
 25 *Superior Court.] issue an administrative order creating a State-*
 26 *operated school district. Notwithstanding any other provision of*
 27 *law to the contrary and upon its determining that the school*
 28 *district is not providing a thorough and efficient system of educa-*
 29 *tion, the State board may direct the removal of the district board of*
 30 *education and the creation of a State-operated school district*
 31 *whose functions, funding and authority are defined in P. L.,*
 32 *c. (C.) (now pending before the Legislature as*
 33 *Assembly Bill No. 4644 of 1987 or Senate Bill No. 3767 of 1987).*
 34 *No order for the creation of a State-operated school district shall*

35 *issue solely on the basis of a district's failure to correct substan-*
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1 4. Section 2 of P. L. 1979, c. 294 (C. 18A:22-8.1) is amended to
 2 read as follows:

3 2. Whenever a school district desires to transfer amounts among
 4 line items and program categories, the transfers shall be by
 5 resolution of the board of education; however, a board may, by
 6 resolution, designate the chief school administrator to approve
 7 such transfers as are necessary between meetings of the board.
 8 Transfers approved by the chief school administrator shall be
 9 reported to the board, ratified and duly recorded in the minutes at
 10 a subsequent meeting of the board, but not less than monthly. *In*
 11 *a school district wherein the Commissioner of Education has*
 12 *directed a comprehensive compliance investigation pursuant to*
 13 *section 14 of P. L. 1975, c. 212 (C. 18A:7A-14), the board of*
 14 *education shall obtain the written approval of the county super-*
 15 *intendent of school prior to implementing any transfer of funds.*

1 *5. (New section) a. Whenever a corrective action plan is estab-
 2 lished for a school district pursuant to subsection c. of section 14
 3 of P. L. 1975, c. 212 (C. 18A:7A-14), the Commissioner of Educa-
 4 tion shall prepare a cost analysis of that plan and shall determine
 5 the funds necessary for its implementation. That analysis shall
 6 include an assessment of the funds which can be reallocated from
 7 the base budget of the school district. For the purposes of this
 8 section, "base budget" shall mean the total current expense budget
 9 of the school district for the year in which the corrective action
 10 plan is established. The State shall pay the difference between the
 11 expenditures included in the base budget and the funds necessary
 12 for the implementation of the corrective action plan.

13 b. Annually thereafter, until such time as the district receives
 14 certification or a State-op-rated school district is established pur-
 15 suant to section 15 of P. L. 1975, c. 212 (C. 18A:7A-15) and P. L.
 16, c. . . . (C.) (now pending before the Legislature
 17 as Senate Bill No. 3767 and Assembly Bill No. 4644 of 1987), the
 18 commissioner shall adjust the base budget in direct proportion to
 19 the rise or fall of the Consumer Price Index for all urban consumers
 20 in the New York city and the Philadelphia areas as reported by the
 21 United States Department of Labor. The commissioner shall then
 22 determine the funds necessary for the implementation of the cor-
 23 rective action plan for that year. The State shall pay the difference
 24 between the adjusted base budget and the cost for the implementa-
 25 tion of the corrective action plan.

26 c. The commissioner shall not issue an administrative order
 27 pursuant to subsection d. of section 14 of P. L. 1975, c. 212 (C.
 28 18A:7A-14) if the State fails to provide the funds required pur-
 29 suant to this section.*

1 ***[5.]*** *6.* (New section) Pursuant to section 15 of P. L. 1975,
 2 c. 212 (C. 18A:7A-15), the State board shall have full authority to:
 3 a. remove the district board of education, b. create a State-operated
 4 school district, and c. appoint, upon recommendation of the com-
 5 missioner, a State district superintendent of schools to direct all
 6 operations of the district, including the implementation of the
 7 administrative order. The State district superintendent of schools
 8 shall have all authority and powers previously vested in the district
 9 board of education.

1 ***[6.]*** *7.* This act shall take effect immediately, but shall re-
 2 main inoperative until enactment of P. L. . . . , c. . . . (C.)
 3 (now pending before the Legislature as Assembly Bill No. 4644 of
 4 1987 or Senate Bill No. 3767 of 1987).

EDUCATION—GENERAL

Provides for the establishment of a State-operated school district
 in certain circumstances.

P. L. 1987, CHAPTER 398, *approved January 13, 1988*

1987 Assembly No. 4643 (*Official Copy Reprint*)

AN ACT concerning the establishment of State-operated school districts, amending and supplementing P. L. 1975, c. 212 and amending P. L. 1979, c. 294.

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 New Jersey Constitution requires that the State maintain
3 and support a thorough and efficient system of free public schools
4 for the instruction of all children in the State between the ages of
5 five and 18;

6 b. In compliance with this mandate, the State Department of
7 Education monitors school districts and during the monitoring
8 process attempts to assist school districts with correcting any
9 deficiencies identified by the monitoring;

10 c. The monitoring process may reveal some school districts which
11 are unwilling or unable to correct the deficiencies identified during
12 the process; and

13 d. The State Department of Education should be empowered with
14 the necessary and effective authority in extreme cases to take over
15 a local school district which cannot or will not correct severe and
16 complex deficiencies in that school district.

1 2. Section 14 of P. L. 1975, c. 212 (C. 18A:7A-14) is amended to
2 read as follows:

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

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate amendments adopted December 10, 1987.**

****—Senate amendments adopted December 17, 1987.**

3 14. a. The commissioner shall review the results of the evalua-
4 tions conducted and reports submitted pursuant to sections 10 and
5 11 of this act. If the commissioner shall find that [a school or] a
6 school district *satisfies the evaluation criteria, the commissioner*
7 *shall recommend that the State board certify the school district as*
8 *providing a thorough and efficient system of education. If the com-*
9 *missioner shall find that a school district has failed to show sufficient*
10 *progress toward the goals, guidelines, objectives and standards, in-*
11 *cluding the State goal and any local interim goal concerning pupil*
12 *proficiency in basic communications and computational skills, estab-*
13 *lished in and pursuant to this act, [he] the commissioner shall*
14 *advise the local board of education of such determination, and shall*
15 *direct that the district enter level II monitoring, as defined pur-*
16 *suant to law and regulation.*

17 b. *When a district enters level II monitoring, the commissioner*
18 *shall direct the local board to prepare [a remedial plan be prepared*
19 *and submitted to him] an improvement plan and submit the plan*
20 *to the commissioner for approval. The improvement plan shall be*
21 *based upon the school district's own internal review and assess-*
22 *ment of those remedial activities necessary to correct those de-*
23 *ficiencies noted in the evaluations and reports. If the commissioner*
24 *approves the plan, [he] the commissioner shall assure its im-*
25 *plementation in a timely and effective manner. If the commissioner*
26 *finds that the [remedial plan prepared by the local board of edu-*
27 *cation is insufficient, he] district is unsuccessful in correcting the de-*
28 *ficiencies noted in the evaluation process, the commissioner shall*
29 *direct that the district enter level III monitoring, as defined pur-*
30 *suant to law and regulation. However, if the commissioner deter-*
31 *mines that a district is making reasonable progress toward correct-*
32 *ing deficiencies, the commissioner may grant an extension for a*
33 *specific period of time. During this extension the district will re-*
34 *main under level II monitoring. At the end of the extension the*
35 *commissioner shall determine whether the district is eligible for*
36 *certification or if the district must be directed to enter level III*
37 *monitoring.*

38 c. *When a district enters level III monitoring the commissioner*
39 *shall establish procedures whereby parents of students in the dis-*
40 *trict may meet with the commissioner or the commissioner's repre-*
41 *sentative to discuss their concerns and the commissioner shall*
42 *designate the county superintendent to appoint an external review*
43 *team whose members shall be qualified by training and experience*
44 *to examine the conditions in the specific district. In conjunction with*

45 the Department of Education, the team shall examine all aspects
46 of the district's operations including but not limited to education,
47 governance, management and finance. In addition, the team should
48 examine factors external to the district's schools which may con-
49 tribute to the district's deficiencies in educational achievement and
50 may recommend measures to mitigate the effects of those external
51 factors in the schools. The team will report its findings and conclu-
52 sions, including directives to be utilized by the district in the prepa-
53 ration of a corrective action plan to achieve certification, to the
54 commissioner. The commissioner will direct the district to use the
55 report of the external review team to establish a corrective action
56 plan. The corrective action plan must be submitted to and approved
57 by the commissioner. The commissioner shall assure that the local
58 district's budget provides the resources necessary to implement the
59 approved plan. The entire cost of those activities associated with
60 the review team shall be paid by the Department of Education. If
61 the commissioner finds, based upon the findings and directives of
62 the review team and the Department of Education, that conditions
63 within the district may preclude the successful implementation of
64 a corrective action plan or that the district has failed to make
65 reasonable progress in the implementation of a corrective action
66 plan to achieve certification, the commissioner shall direct that a
67 comprehensive compliance investigation be conducted by the De-
68 partment of Education. If the commissioner directs that a compre-
69 hensive compliance investigation be conducted, the commissioner
70 may order any necessary action to insure the security of the books,
71 papers, vouchers and records of the district.

71A ****d.** Whenever a district in Level III monitoring shall be required
71B to implement an approved corrective action plan pursuant to this
71C section, the commissioner shall determine the cost to the district of
71D implementation of those portions of the corrective action plan
71E which are directly responsive to the district's deficiencies as
71F identified in the report of the external review team or, where
71G applicable, by the commissioner. In making this fiscal assessment,
71H the commissioner shall identify those aspects of the corrective
71I action plan which are already contained in the district's current
71J expense budget. Where appropriate, the commissioner shall reallo-
71K cate funds within the district's budget to support the corrective
71L action plan. Once reallocated, any transfers among line items of the
71M district's budget may occur only with the commissioner's approval.
71N The commissioner shall further determine the amount of additional
71O revenue, if any, needed to implement the corrective action plan and

71P shall recertify a budget for the district. The State shall provide
 71Q additional State aid at the district's State support level on a current
 71R year basis for any portion of the budget recertified by the commis-
 71S sioner pursuant to this subsection that exceeds the original budget
 71T of the district for that fiscal year. Whenever the commissioner
 71U shall determine that conditions in a district in Level III monitoring
 71V preclude successful implementation of a corrective action plan and
 71W shall order such a district into comprehensive compliance investiga-
 71X tion, the district shall not be eligible for the additional State educa-
 71Y tion aid made available pursuant to this subsection.**

72 **[d.]** **e.** A comprehensive compliance investigation shall
 73 entail a thorough and detailed examination of a district's educa-
 74 tional programs, fiscal practices, governance and management.
 75 Based on the investigation, the commissioner shall issue a report
 76 which will document any irregularities and list all those aspects of
 77 the corrective action plan established pursuant to subsection c. of
 78 this section which have not been successfully implemented by the
 79 district or the conditions which would preclude the district from
 80 successfully implementing a plan. A copy of this report shall be
 81 given to the district. The commissioner shall also order the local
 82 board to show cause why [the corrective actions provided in] an
 83 administrative order, subject to the provisions of section 15 of this
 84 act and section 1 of P. L., c. . . . (C.) (now pending
 85 before the Legislature as Assembly Bill No. 4644 of 1987 or Senate
 86 Bill No. 3767 of 1987) should not be [utilized] implemented. The
 87 plenary hearing before a judge of the Office of Administrative Law,
 88 pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410
 89 (C. 52:14B-1 et seq.), upon said order to show cause shall be con-
 90 ducted in the manner prescribed by subdivision B of article 2 of
 91 chapter 6 of Title 18A of the New Jersey Statutes.

92 In the proceeding the State shall have the burden of showing
 93 that the recommended administrative order is not arbitrary, un-
 94 reasonable or capricious.

1 3. Section 15 of P. L. 1975, c. 212 (C. 18A :7A-15) is amended to
 2 read as follows:

3 15. If, after a plenary hearing, the commissioner determines that
 4 it is necessary to take corrective action, [he] the commissioner
 5 shall have the power to order necessary budgetary changes within
 6 the [school] district[, to order in-service training programs
 7 for teachers and other school personnel, or both. If he determines
 8 that such corrective actions are insufficient, he] or other measures
 9 the commissioner deems appropriate to establish a thorough and
 10 efficient system of education with the exception of the creation of a

11 *State-operated school district. The commissioner shall assure that*
 12 *the local district's budget provides the resources necessary to*
 13 *implement the order. If the commissioner determines that the*
 14 *district has failed to take or is unable to take the corrective actions*
 15 *necessary to establish a thorough and efficient system of education,*
 16 *the commissioner shall [have the power to] recommend to the State*
 17 *board that it [take appropriate action. The State board, on deter-*
 18 *mining that the school district is not providing a thorough and*
 19 *efficient education, notwithstanding any other provision of law to*
 20 *the contrary, shall have the power to issue an administrative order*
 21 *specifying a remedial plan to the local board of education, which*
 22 *plan may include budgetary changes or other measures the State*
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 25 *Superior Court.] issue an administrative order creating a State-*
 26 *operated school district. Notwithstanding any other provision of*
 27 *law to the contrary and upon its determining that the school*
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 4 line items and program categories, the transfers shall be by
 5 resolution of the board of education; however, a board may, by
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 8 Transfers approved by the chief school administrator shall be
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